

JUSTICE OF THE PEACE

and

LOCAL GOVERNMENT REVIEW

VOL. CXVIII

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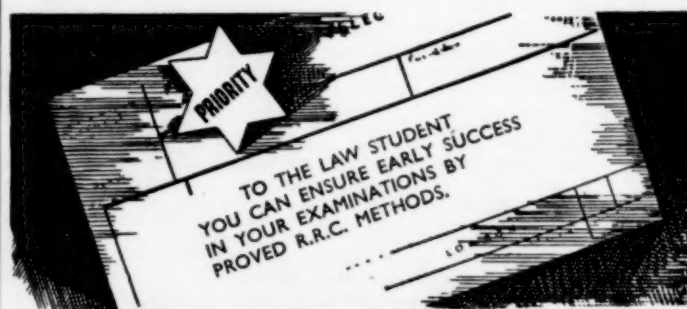
No. 21

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NOTIFICATION OF VACANCIES ORDER, 1952.

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. Note: Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

APPOINTMENTS

HOME OFFICE: CHILDREN'S DEPARTMENT AND PROBATION INSPECTORATES. The Civil Service Commissioners invite applications for pensionable posts as Inspectors Grade II in the Children's Department Inspectorate, in London and Provinces, and in the Probation Inspectorate in London.

The Children's Department Inspectors' duties include the inspection in England and Wales of arrangements for boarding out children with foster parents, of children's homes and nurseries and of approved schools and remand homes, and assistance in training workers in child care.

The Probation Inspectors' duties include inspection of probation work in England and Wales, advice on individual cases and assistance in the training of entrants to the Probation Service.

Age preferably at least twenty-eight on April 1, 1954. Candidates must have a wide experience of social conditions in this country and an understanding of behaviour problems. They should normally have had practical experience of family case work. Preference will be given to candidates who hold a University degree or a diploma or certificate in social or domestic science or institutional management or who have taken other recognized training in social or educational work.

Salary scales (London) (including Extra Duty Allowance where payable)—Men £872-£1,126; women £729-£985.

Particulars and application forms from Secretary, Civil Service Commission, 6, Burlington Gardens, London, W.1, quoting No. 4328/54. Application forms to be returned by June 3, 1954.

LINDSEY COUNTY COUNCIL require ASSISTANT SOLICITOR. Local government experience not necessary. Salary scale £735-£825-£860. Starting salary may be increased. Post superannuable and subject to medical examination. Apply, with particulars of education and experience, and two referees, before May 31 (no forms) to Clerk of County Council, P.O. Box 17, County Offices, Lincoln. Canvassing will disqualify.

LANCASHIRE COUNTY COUNCIL

ADMINISTRATIVE ASSISTANT required. Salary A.P.T. V (£620 to £670.) Committee experience desirable. Knowledge of Magistrates' Courts Committee work an advantage but not essential. Applications to Clerk of the County Council, P.O. Box 78, County Hall, Preston, by May 29.

APPOINTMENTS—(contd.)

METROPOLITAN BOROUGH OF FINSBURY. Appointment of Deputy Town Clerk. Applications are invited from solicitors having Local Government experience for the appointment of Deputy Town Clerk. The salary will be £1,200 per annum, rising by three annual increments of £50 to £1,350 per annum. (Scale D.) The conditions of service recommended by the Joint Negotiating Committee will apply generally to this appointment. Particulars of the appointment will be forwarded on request, and applications, in the form described in the particulars, must reach the undersigned by May 29, 1954.—John E. Fishwick, Town Clerk, Finsbury Town Hall, Rosebery Avenue E.C.1.

KENT COUNTY COUNCIL requires SOLICITOR to assist with advocacy and kindred work. Local government experience an advantage. Salary in accordance with Grades A.P.T. VII-IX (£735-£960) of the National Scheme of Conditions of Service. Applications, stating age, date of admission, particulars of present and previous appointments and general experience, and giving the names of two referees, to reach the Clerk of the County Council, County Hall, Maidstone, not later than May 26, 1954.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant). Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. **DIVORCE — OBSERVATIONS — ENQUIRIES**—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel.: Boldon 7301. Available day and night.

HAMMERSMITH

ASSISTANT SOLICITOR. Salary within Grades A.P.T. VII/VIII (£735-£825-£860 plus London weighting) according to qualifications and experience. Application form, returnable by June 5, from Town Clerk, Town Hall, W.6.

COUNTY BOROUGH OF GREAT YARMOUTH

Assistant Solicitor

A VACANCY exists in my Department for an Assistant Solicitor in Grades A.P.T. Va to VII (£650-£810) according to experience. Housing accommodation will be provided, if required.

This appointment will provide all-round County Borough experience, particularly in the field of Town Planning, estates and reconstruction work. Previous local government experience, although desirable, is not essential.

Applications, giving relevant details including the names of two referees, must reach my office not later than June 7, 1954.

FARRA CONWAY,

Town Clerk.

Town Hall,
Great Yarmouth.

THE NATIONAL COAL BOARD

DURHAM DIVISION

APPLICATIONS are invited for the appointment of a Conveyancing Clerk in the Department of the Legal Adviser to the Durham Divisional Board at Newcastle upon Tyne.

Candidates should have had a wide experience in conveyancing and be able to deal with matters with only slight supervision.

The salary will be within the scale £555 with annual increments subject to satisfactory service of £20 to a maximum of £695 per annum according to experience. The provisions of the Board's Superannuation Scheme will apply to the post.

Applications, giving full particulars including age, education and experience, should be sent within ten days of the publication of this advertisement to "The Divisional Establishments Officer, National Coal Board, Durham Division, Milburn House, Newcastle upon Tyne, 1."

COUNTY OF DURHAM

Petty Sessional Division of Bishop Auckland

Appointment of First Assistant Clerk to the Justices

APPLICATIONS are invited for the above appointment at a salary at present in accordance with A.P.T. V (£620-£670). Population 110,000.

The position is at present subject to the National Joint Council's Scheme of Conditions of Service, and to the passing of a medical examination.

Applicants should have a thorough knowledge of all the duties of a Justices' Clerk's Office, be quick and accurate in typing, and be competent to take Courts and advise the Justices.

If the successful applicant requires housing accommodation favourable consideration will be given by the local authority.

Applications, stating age and experience, together with the names of three referees, to reach the undersigned not later than June 1, 1954.

FRED McWILLIAMS,

Clerk to the Justices.

Magistrates' Clerk's Office,
"Cockton House,"
Cockton Hill Road,
Bishop Auckland.

Justice of the Peace and Local Government Review

[ESTABLISHED 1837.]

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NOTES of the WEEK

Two-Wheeled Trailers with a "Dolly"

The High Court decided in the case of *Brown v. Dando* heard in the Divisional Court on April 29, 1954, that a two-wheeled caravan towed behind a car with the aid of a "Vandolly," which as we understand it is a small chassis with two wheels, becomes a four-wheeled trailer, and cannot therefore be towed at a speed exceeding twenty miles per hour. The Lord Chief Justice said that in the metropolitan area the Vandolly had been challenged as being an independent trailer, it being then alleged that the car was illegally towing two trailers. He was not concerned with that aspect of the matter, but in the case before them the Cambridge police had alleged that the caravan had been converted into a four-wheeled caravan, which obviously it had. The case was sent back to the justices, who had found the case not proved, with a direction to convict. So far as we are aware this case has not, at the time of writing, been reported.

We are obliged to Mr. Hanhart, who called our attention to this question on a previous occasion (see 114 J.P.N. 215), for sending us a report of *Brown v. Dando*. He informs us that the attention of the Minister of Transport has been drawn to the matter. Presumably those interested in this question hope to get authority for treating the "Dolly" as a mere towing device, and not as having the effect of converting a two-wheeled into a four-wheeled trailer. We are not concerned here to discuss the merits of the matter, but there can be no doubt that the difference, on a long journey, of being restricted to twenty miles an hour instead of thirty is considerable, and one cannot ignore the effect on following traffic on narrow roads when there is difficulty in overtaking.

Retroactive Maintenance Order

It is generally considered that a magistrates' court has no power, when making an order for periodical payments, to ante-date the order unless there is a statutory provision authorizing such an arrangement, as in the case of an affiliation order made on an application which was made before the birth of the child or within two months after. There are cases in which magistrates would like to order a husband to pay maintenance under their order from a date much before the date of the order itself, but generally this cannot be done.

In the case of an appeal to the High Court it may be possible in some circumstances to back-date the order. In *Starkey v. Starkey*, ante p. 281, the justices declined to make an order and there was an appeal. The Divisional Court allowed the appeal and remitted the case for the justices to determine the amount of the order. The justices made the order, which was on the

ground of neglect to maintain, but did not ante-date it, holding that they had no power to do so. Subsequently the husband was committed for arrears, and the matter again came before the High Court, when it was held that the justices could have ante-dated the payments to the date when the High Court had allowed the wife's appeal against the dismissal of her summons at any rate.

The equity of putting the wife in the position in which she would have been if the justices had made the order in the first place is apparent, and no doubt the justices were glad to know that that is the law, though they did not feel able to come to that decision without a High Court decision to support them. From the point of view of the husband it would no doubt be urged that in considering any question of arrears it should be remembered that he had acted in good faith in not putting by money towards the maintenance of his wife, because he believed he was not liable. In fact the Divisional Court did not hold him liable for arrears between the date when it allowed the first appeal, and the date when the justices actually made their order.

The case is not a general authority for justices to make retro-active orders in all circumstances. It means, as we understand it, that where there has been an appeal resulting in a decision that an order ought to have been made, and the case is remitted for the justice to determine the amount, the justices, when they make an order in obedience to the order of the High Court, may require payments to date from the date of the High Court's judgment.

Instruction for Magistrates

Courses of instruction, including lectures and discussions, for the benefit of newly appointed justices have now been going on for some time in many parts of the country. In addition to the part played by magistrates' courts committees, there are periodical bulletins prepared by clerks to justices and circulated in the division.

In East Suffolk, the magistrates' courts committee have decided to circulate a bulletin, under the editorship of Mr. J. N. Martin, a well known clerk to justices in the county, among the justices throughout the county. The first issue contains a foreword by Sir Cecil Oakes, C.B.E., D.L., in which he says the bulletin is meant to supplement the courses of lectures which have already taken place and which will no doubt continue.

In his editorial notice, Mr. Martin explains that although the bulletin will deal with new legislation and recent decisions it will also contain notes on questions of general interest to magistrates, with the object of providing them with a background of legal

knowledge which will enable them to appreciate fully the points of law that may arise before them and the advice they will receive from their clerk.

This first issue contains much useful information presented briefly and clearly. Naturally, such important statutes as the Magistrates' Courts Act, 1952, and the Licensing Act, 1953, are dealt with, and there is an explanation of the new kind of consolidation Act and the limited scope of amendments. Mr. Martin points out that the minor amendments effected by the Magistrates' Courts Act are mostly matters for the clerk, but a selection of some alterations which it is thought magistrates themselves may find it useful to know about is given. Other matters upon which practical guidance is given are committals for trial, the retirement of the clerk with the justices and the difference between dangerous driving and driving without due care and attention. This last question, which puzzles a great many people, is subjected to close and careful examination. The bulletin, a sixteen-page booklet of convenient size, entitled "The Suffolk Magistrate," is to be issued four times a year. Judging by this first issue, it should prove valuable to magistrates, whether experienced or newly appointed, and even the busiest man or woman can find time to read it.

Second Thoughts Not Best

A curious story was told to the Divisional Court in *Hawkins v. Emden* (*The Times*, May 7) on the hearing of an appeal by Case Stated. In the magistrates' court, at the conclusion of the case for the prosecution, counsel for the defendant had submitted that there was no case to answer. The justices consulted with their clerk, who directed their attention to the relevant authorities, and they announced their decision against the submission, whereupon counsel said that there would be an application to state a case. He called no evidence. The justices then decided to dismiss the case, and it was the prosecutor who then appealed by Case Stated.

The Divisional Court allowed the appeal and remitted the case to the justices with a direction to convict. The Lord Chief Justice said that it was a lamentable proceeding on the part of everyone except the clerk and the prosecutor. They had come to a correct decision with the advice of the clerk, and it was a pity that at the prospect of having to state a case, they had altered their decision with the result that they had to do so on the application of the prosecution.

There is no reason why justices should shrink from having to state a case. In this, as in all other matters involving questions of law, they can rely on receiving from their clerk all the assistance they need, usually after the representatives of the parties have been given an opportunity of submitting a draft. If their decision is reversed on the ground that they took a mistaken view of the law, there is no disgrace in that, and if they have applied their minds carefully and conscientiously to the matter, they can rest assured that they will not incur reproof. In the present instance, if the justices had adhered to their original decision, unperturbed by the suggestion that they would be asked to state a case, they might not have had to do it after all, and if they had they would have been upheld.

Cup Final Not a "Special Occasion"

The headline is taken from a country newspaper.

The national press vied with itself in describing with vivacity of narration and literary charm everything that could be extracted from the movement of one hundred thousand people to Wembley

Stadium for the purpose of witnessing the struggle between West Bromwich Albion and Preston North End in the final of the Football Association Cup Competition: once again superlatives were spilt in descriptions of sporting England rampant: once again there was remarked the phenomenon of Midland and Lancashire accents overheard in Trafalgar Square: once again the penny-a-liner discovered sartorial splendours—with particular reference to cloth caps—in the invading partisans: once again battle was joined, was won and was lost: once again, with joyous or muted rattles (and other delicately modulated instruments), the hundred thousand returned to distant homes: some happy, some not, but all, we suppose, agreed that the events of the day represented a "special occasion."

Wherefore, then, the shocking assertion contained in the headline.

In a public house, many miles from Wembley, an enterprising landlord catered for his customers' enjoyment by installing a television set. He had then applied to the local magistrates' court for a special order of exemption with the object of assisting the flow of a bonus pint from his cornucopia upon that viewer who would, perchance, need a cooling drink as he watched the diffused football match brought to him by the courtesy of the British Broadcasting Corporation. The local police superintendent is reported to have said that "this sort of occasion is not covered by the list of special occasions on which extensions can be granted." He went on to say "I do not think that there would be any abuse if the extension were granted; but I think it is throwing the door rather wide open." The court held that the event was not a "special occasion" such as is contemplated by s. 107 of the Licensing Act, 1953, and refused the application.

We are not informed of the reasons for the refusal, and it is far from our desire to suggest that the refusal was in any way wrong in law. We accept, and have answered many Practical Points in our columns in accordance with, the oft quoted dictum of Lord Coleridge, C.J., in *Devine v. Keeling* (1888) 50 J.P. 551, "the question what is a special occasion must necessarily be a question of fact in each locality: it is for the justices in each district to say whether a certain time and place are within the description." But on the remarks of the police superintendent we will permit ourselves to comment: (i) there is nothing known to licensing law which may be described as "a list of special occasions on which extensions can be granted"; (ii) if the application relates to an event of unusual attraction, confidence that the privilege will not be abused is a very strong reason for granting it; (iii) a judicial discretion, rightly exercised, connotes a willingness to open the door so as to admit the proper and a firmness in closing it against the improper.

Historical Development of the "Special Occasion"

The power of justices to grant an order enabling on-licensed premises to extend their hours of opening on any special occasion or occasions was first introduced into licensing law in s. 29 of the Licensing Act, 1872. The exemption then was from the provisions of the law as to "closing hours," then introduced into the general law after having been permissive for eight years, to prevent the abuses of "all night drinking." "Closing hours," outside the Metropolis, could be fixed so as to allow the sale and consumption of intoxicating liquor without break from 5 a.m. until midnight. It may be supposed that good administration would require something "special" in the way of an "occasion" to justify an enlargement of these hours. The introduction of "permitted hours" by the Licensing Act, 1921,

in the place of the "closing hours" prescribed in earlier statutes, produced a change in attitude to the special order of exemption. With this change there came a noticeable enlargement of practice and a greater elasticity in interpreting the expression "special occasion": the shift has been from the "external" occasion such as a fair or race-meeting (at which "all night opening" was once popular for the purpose of keeping indoors the many more people than the inns had beds to accommodate) to the "internal" occasion, or what would more aptly be described as an organized entertainment held within the licensed premises.

Thus, while there may be excellent reasons in fact which operate against permitted hours being extended in the afternoon so as to prevent the service of cooling drinks to excited football fans, neither law nor modern theory does anything to restrict a magistrates' court's discretion in the matter.

Delegated Legislation

Sometimes those who have to administer the law, and still more those who may have infringed the law, complain that they cannot ascertain or may well have over-looked the law on some particular subject, because so much of it is included in orders in council or statutory instruments and not in the statute itself. A statute may require so much to be done by regulations that it is impossible to understand the Act without reading complicated regulations and Parliament cannot profitably debate the Bill leading to such an Act, because the regulations cannot be made until the Bill has been passed, so reliance has to be placed on what the Minister says will be dealt with by regulations. A noteworthy instance of this nature is the Local Government Superannuation Act, 1953, under which the necessary superannuation regulations have even yet not been made. The report from the select committee on Delegated Legislation is therefore of general interest.

The power to legislate, when delegated by Parliament, differs necessarily from the power of Parliament itself to legislate, as a purported exercise of a delegated power beyond the extent so granted will be *ultra vires*. The Donoughmore Committee in 1932 saw definite advantages in Parliament having the opportunity to delegate powers to a subordinate authority to legislate provided that the statutory powers can be exercised and the statutory functions performed in the right way. It was explained to the select committee that in the preparation of a Bill, it is the practice to deal directly with all important matters of policy and to limit regulation-making power to matters of detail or in which elasticity is desirable or in which new statutory powers are being created and in which the line of future developments cannot be foreseen.

In order that there may be a proper and regular review of all statutory instruments there has for ten years been a sessional committee of the House of Commons, known as the Scrutiny Committee, which consists of eleven members, and it is the practice for the chairman to be a member of the opposition. It is the duty of this committee to consider whether the special attention of the House should be drawn to a statutory instrument or draft on various specified grounds. The committee cannot consider or report on the merits or policy of any instrument and before it reports it must hear the views of the department concerned. The procedure for parliamentary control over statutory instruments varies according to the provisions of the particular Act. Sometimes there is merely a provision that the instrument shall be laid before Parliament, with no further provision for control, such as under the New Valuation Lists (Postponement) Act, 1952, but the most usual procedure is for laying before Parliament with immediate effect but subject to annulment in pursuance of a resolution of either House. A prayer

to annul a statutory instrument must be put down by a member who must try to ensure that there is a quorum of members (normally forty) present. Sometimes the instrument is laid in draft when a definite resolution by either House within forty days will stop all further progress towards converting the draft into a final instrument but does not prevent the laying of a fresh draft before Parliament. The Prison Rules made under the Act of 1952 are subjected to this procedure. Sometimes a draft does not become an effective instrument until an affirmative resolution approving it has been passed by each House. The select committee expressed the view that great care is exercised in the preparation and drafting of any proposed Bill and as to the degree to which Parliament should be asked to give the Minister powers to legislate.

It was explained by the Home Office that whenever practicable outside interests that may be affected by any regulations are consulted informally as is the practice of departments generally. For instance, the associations of local authorities are regularly consulted on matters in which they are interested; in the case of regulations relating to safety provisions in cinemas representative local authorities and the trade interests concerned are consulted; in the case of regulations relating to safety appliances on fireguards the trade associations and professional organisations are consulted on the technical issues which arise. This procedure must clearly be of the greatest possible value to all concerned and it is one of the most important functions of the local authority associations to consider such matters.

Amongst those who gave evidence to the select committee was Mr. Herbert Morrison, who was able to speak from his experience both as a former Minister of the Crown and as a former leader of the London County Council. He seemed to think that there are some matters which could be left definitely to the local authorities, and in respect of which Parliament should not be troubled. A county council might be empowered, for instance, by a particular Act to make regulations or that power might be conferred by a statutory instrument made under the Act. We think the question as to whether action might be taken on these lines in some future Bills is a matter which is worth consideration by the local authorities' associations. As was explained by Mr. Morrison a local authority is often given by an Act certain powers to make regulations, but other matters may be subject to a statutory instrument. He thought a government department should not "hang on to anything it does not have to" and on the other hand county councils should "not hang on to what they could fairly delegate to county district councils". He suggested, therefore, that it was worth investigating whether Parliament is not trying to deal with matters which could equally well, and possibly better, be done by the local authorities.

The select committee was informed as to the procedure for the approval of byelaws submitted by local authorities, these are based sometimes on a model series prepared by the department for the guidance of local authorities generally; others are based on precedent or are entirely original. In framing a model byelaw or in examining a local authority's proposal, special care is taken in the Home Office to see that the byelaws are *intra vires*; that they are not repugnant to the general law; that they are clear and precise in terms and that they are reasonable. In every case, also, the department makes inquiries so as to be satisfied that there is a real need for the byelaws. Every byelaw which the Home Secretary has authorized to confirm is confirmed by the Secretary of State himself and no official has any power to do so in his name. In the Ministry of Food, however, it is the parliamentary secretary who normally signs an order but power is also given to the permanent secretary and the two deputy secretaries to do so.

THE EVERSHED REPORT

A NEW APPROACH TO JUSTICE IN THE HIGH COURT

By GRÆME FINLAY, M.P., *Barrister-at-Law*

Last July, a formidable White Paper entitled the Final Report of the Committee on Supreme Court Practice and Procedure (cmd. 8878) made its appearance. It was the product of more than six years researches by a committee presided over by Lord Justice Evershed, the Master of the Rolls, and its inquiries covered the greater mass of the practice and procedure of the High Court with a view to reducing the cost of litigation, and securing greater efficiency and expedition in the dispatch of its business.

The composition of this committee included besides the Master of the Rolls, two High Court Judges, Masters of the Supreme Court, barristers, solicitors, M.P.s, industrialists, trade unionists and economists, together with a professor of jurisprudence, and a chartered accountant.

No-one who has read this bulky and very technical document can fail to be impressed with the painstaking thoroughness with which the committee has delved into all the nooks and crannies of our legal procedure in its attempt to solve the problem of the proverbial "laws delays".

They have heard a great volume of oral evidence and read memoranda submitted by innumerable organisations and individuals having an interest in this matter and have always been ready to consult the jurists of the Dominions and foreign countries if they felt that anything could usefully be learnt from different systems of law.

The method of the committee was to examine systematically each aspect of procedure starting with the writ which opens proceedings in the Queen's Courts and then tracing all the subsequent steps in an action, including all the preparatory or interlocutory steps, evidence and trial, the execution of judgments, and procedure on appeal. The committee also considered in detail litigation at the public expense and the limitation and assessment of costs and dealt separately with the vexed questions of counsels fees.

There has been a considerable increase in litigation since the war in the High Court. In 1938 the total of proceedings in the High Court was 103,821, but in 1952 this figure had grown to 169,544. The volume of proceedings in the Chancery Division is now about the same as it was in 1938 and the increase is largely due to the increased popularity of the Queen's Bench Division and the greater number of divorce proceedings in the Probate, Divorce and Admiralty Division.

To some extent, this increase has been caused by assisting litigants to take proceedings under the Legal Aid and Advice Act, 1949, although this subsidy to litigation is, by no means, the main contributory factor in the more frequent use of the courts. (In 1951, the number of civil aid certificates issued was 40,736, but in 1952 this figure dropped to 32,427). Personal injuries cases constitute over forty *per cent.* of all Queen's Bench Division Actions, and this type of case is considerably on the increase, due it is said, to niggardly awards under the Industrial Injuries Act (which replaced the much criticized Workmens Compensation Acts) leading to the expansion of claims under the Factories Acts. The Evershed Committee recognized the importance of this development by including a separate chapter in their Report on actions for personal injuries.

The public, in their increasing recourse to the Courts, naturally

desire to have their cases disposed of economically and speedily, but those aims have proved to be difficult to achieve in practice.

After going through procedure with a tooth-comb, the published conclusions of the committee make hundreds of recommendations on speed and economy. Many of these are on matters of small technical detail in procedure whilst others amount to substantial alterations. The report is notable for the number of suggestions which have been considered and rejected, because although they might save time and money in one direction, they would lose more in others. The committee recommend what they call a "new approach" towards litigation. Probably the most important of their proposals concerning pre-action procedure is that the powers of the Masters of the Supreme Court should be strengthened and that they should exercise these powers in a "robust" manner. This recommendation concerns the summons for directions, by means of which the Masters of the Supreme Court give directions as to the future conduct of proceedings before trial. This stage in procedure enables an opportunity for limiting the issues to be tried and the expenses of their proof. The object of the recommendations is by eliminating needless issues, to avoid the calling of unnecessary witnesses and the production of superfluous documents. For example, in a running down case it may be unnecessary to call a man's employer to give evidence as to his wages when there is really no dispute about this between the parties.

On the other hand, it is said that the Masters of the Supreme Court, although they are appointed from the ranks of experienced practising lawyers, feel considerable qualms at the additional responsibilities to be placed upon them and the practicability of working the proposed "new approach" boldly. On the same lines, the committee advocate that Her Majesty's Judges should become more "costs conscious" but some lawyers see in this the time of the court being taken up unduly in prolonged argument about costs when the Judge having disposed of one case, is anxious to get on to the next. (Normally, of course, the details of costs are settled out of court time by officials of the court.)

The committee have made a number of recommendations directed to save costs at trial. Noteworthy are those in connexion with plans, photographs and models, and those concerning the evidence of expert witnesses—often expensive items. It has even evolved suggestions to enable counsels' opening speeches to be compressed to a minimum (!) and considered the physical comfort of witnesses whilst in the box. Witnesses, when giving their evidence, should be entitled either to stand or sit down as they please. This recommendation, which has no direct bearing on the costs or despatch of an action, is designed to relieve the strain of the ordeal but may result in practical difficulties. Many of the courts of this country are so constructed that it is difficult, if not impossible, for those concerned to hear the evidence or judge the demeanour of witnesses who, being seated, are barely visible over the top of the witness box!

The committee have made important recommendations as to procedure on appeal, including one that the issues to be decided should be clearly stated by an intending appellant on his notice of appeal—a reform which seems to be long overdue. They have also suggested a "leapfrog" scheme whereby in certain cases

appeals from the High Court can go direct to the House of Lords, bye-passing the Court of Appeal and thereby cutting out an expensive stage in the promotion of an appeal.

When all is said and done, the recommendation which would probably save the most time and expense in litigation is the fixing of firm dates for trials. At the present time it is not possible to predict with precision until a very late stage, when a trial will actually start and so a good deal of delay and expense is caused. This proposal would no doubt result in the Judges sometimes being without work due to a case being settled or otherwise "cracking up" before its allotted time, but this loss of judicial time must be weighed against the wider public interest. At any rate no one reform commands so much support both within the legal profession and outside.

Another important question considered (but not adopted) by the committee was about the production of scales of costs related to the amount involved in the proposed litigation. There are a number of substantial objections to this scheme which operates in parts of the Dominions, but it would at least have the effect of enabling the litigant to know more accurately beforehand what expense he will be involved in if he embarks on litigation.

Opinion in the legal profession is divided about the probable effect of the committee's 229 proposals. As most of these relate to technical matters of procedure it is clear that there must be confidence in them and co-operation from and between the Bench, bar, and solicitors if they are to work effectively. Some legal authorities are sanguine that the committee's proposals will, if operated, make a considerable difference, whilst others feel they do not add up to very much improvement.

The proposals about counsels fees have been unfavourably received by the bar as a whole. The bar is an overcrowded and highly competitive profession and barristers are understandably sceptical of a scheme which makes specific proposals for cutting down their fees but is far from explicit, in their view, about increasing fees for aspects of their work for which it is conceded they are underpaid. The feelings of the profession were recently voiced by the Attorney-General (Sir Lionel Heald, Q.C.) at the recent annual general meeting of the bar.

The Evershed Committee were satisfied in their report that "the junior barrister employed on his own is by no means overpaid" and informed opinion has recently been severely startled to learn the true facts about the average earnings at the bar. For years past the popular press has produced highly imaginative accounts of fashionable Q.C.'s earnings and this habit of building up a completely exaggerated picture in the public mind has had its effect in more ways than one.

Most of the complaints about barristers' fees are traditional ones and probably have their origins in the halcyon days of Victorian litigation or highly coloured newspaper reports.

They almost all relate to cases in which Q.C.s are employed with juniors. The committee has sought to meet them by proposing alterations to the rules about "refreshers" (the fees paid to barristers if the trial lasts more than a day), "the 2/3rds rule" (by which a junior barrister must get 2/3rds the fee of the Q.C. who leads him) and recommending that the barrister's clerks' fees should not be paid by the litigant. The first two alterations involve the scaling down of refresher fees and the "2/3rds rule". At the same time the report concedes, that the junior bar are under remunerated for the important and responsible "paper work" which they do before an action comes to trial. This often involves skilled and exacting research frequently over a period of hours or even days, and there can be no doubt that the public generally get more than value for the few guineas that they pay for it. This is particularly the case with counsels' opinions.

The cult of the "star" or "fashionable" Q.C. encouraged by the popular press has distinctly influenced the costs of litigation. So great is the pressure of demand for the renowned Sir "A.B.," Q.C., that his fees are forced up to great heights to protect his health and sanity (and still the clients come!). If the public think he is too costly they can easily cure that trouble by going to (slightly) less eminent Queen's Counsel whose fees may be considerably less expensive. As a great advocate said the other day, generally speaking it is the facts of a litigant's case that win it, not their manner of the presentation in court by counsel. It is, however, quite unreasonable to expect the best counsel for the cheapest fee when the laws of supply and demand work so inexorably in a highly competitive profession.

It is by no means true, however, to say that the interests of the public and the legal profession are mutually conflicting in the matter of economical and speedy litigation. On the contrary, in the long run, these interests are congruent.

It is the job of the Government to see that the machinery of the law is as simple and speedy as is consistent with doing justice according to the high standards to which we have become accustomed in England. (Our complex civilisation has rendered this a formidable task and it would be only too easy to organize a system which would be cheap, rapid and nasty.) The public expect their lawyers to operate this machinery as speedily and economically as possible in their best interests and it is to the advantage of the legal profession to command the confidence of the public in these respects.

On the other hand, the public should not expect economies to be made at the unfair expense of the legal profession who should be conceded a fair remuneration for their services.

More especially is the bar the source from which the Queen's Judges are chosen, and it would be an evil day for the nation if the best material left it or failed to enter it.

ILLITERATE DELINQUENTS

By A PROBATION OFFICER

According to the *Concise Oxford Dictionary*, to educate is to "train mentally and morally." Something which a probation officer has always to keep in mind particularly with regard to the illiterate delinquent. Many such young people benefit from additional coaching in reading, and a good liaison between the probation officer and local schoolteachers can prove very helpful toward the eventual success of probation.

Imagination, so it is said, is that mental faculty which differentiates most markedly *homo sapiens* from his brother primates.

In reading, words and sentences are translated into mental pictures; thus the use of imagination and phantasy can help to offset the mental torpor and moral turpitude of excessive cinema-going. An example is the case of a thirteen year old backward boy who stole money in order to go to the cinema several times a week. Placed on probation, he was introduced to a school-teacher who coached him in reading. He is now content to go to the cinema once a week, and spends a fair proportion of his leisure time reading books borrowed from his school library.

Imagination also helps the power of reason, for by this means possible consequences of action can be foreseen. The kindly, patient teacher by participation with the delinquent in teaching him to read can do much to restore that all-important self-confidence and faith in human relationships, particularly where

the home background is a crude or unsympathetic one. The satisfaction of being able to read may assist a child to escape from such harsh realities for a time and may give the individual concerned his or her first experience of a socially rewarding achievement.

LOCAL GOVERNMENT IN TANGANYIKA

By JOHN MOSS, C.B.E.

Tanganyika is administered by the United Kingdom under a trusteeship agreement approved by the United Nations in 1946. Amongst the official members of the executive council there is a member for local government who is chief adviser on African affairs and has the oversight of native administration, local government authorities and local courts. Local government varies in form and scope from the municipal council of Dar-es-Salaam with a population of 100,000, thirty townships authorities with populations varying from 3,000 to 22,000, to native authorities in the vast rural areas. The country has an area of 362,688 square miles and is divided into eight provinces, each with a provincial commissioner who is responsible to the Governor for the general administration of the province. In each province there are district commissioners who maintain close contact with the local government bodies and are responsible to the provincial commissioner.

When I was in Tanganyika recently, I discussed local government administration with senior officials, with some who are responsible for the administration of Dar-es-Salaam and also with some who were concerned with rural communities. This showed very great contrasts. Dar-es-Salaam is administered by a municipal council under the chairmanship of a mayor, the present holder of the office being a prominent Asian businessman. The mayor is elected annually by the council and has an allowance of £400 a year, but the present mayor spends a considerable sum towards local activities out of his own pocket. The deputy mayor is a nominated European official. Until recently all members of the council were appointed by the Governor but a system has now been introduced whereby the African and Asian members are elected by their several communities. There are twenty-three members; seven Africans, seven Asians and seven Europeans together with two European government officials. There are two women on the council, one an Asian and one a European. When considering local government as other matters in Tanganyika—particularly in Dar-es-Salaam and the other coastal urban areas—it must be remembered that the main trading community apart from representatives of big British undertakings, is Asian, which includes the Ismaili sect of Islam of which the Aga Khan is the spiritual head.

The Dar-es-Salaam municipal council has a revenue expenditure of some £300,000 a year of which more than half is not by government grants. Clearly the council wishes to do more in the way of providing extensive draining schemes and the making up of roads—both badly needed—but it has not the money to do all that seems to be required. Its problems are intensified by its wide area stretching to at least five miles in each direction from the centre. Where an authority such as Dar-es-Salaam has power to levy rates, this is on site or improvement values or it may be on both. Dar-es-Salaam has altered its basis from improvement to site value in the hope that this will accelerate the development of undeveloped land. Township authorities have more limited powers and derive their revenue almost entirely from Government grants. The district

commissioner is the president of the town authority which is constituted of official and non-official members, but the present trend is to have a majority of non-official members. Africans are sometimes in the majority, but sometimes have equal representation with Asians.

RURAL AREAS

In the rural areas a system of local government is being evolved by using and developing the tribal authority and by creating district, divisional and village councils. In many areas there are now district councils with full administrative powers and in other areas the district councils are advisory to the district commissioner. The type and status of the various divisional councils also vary, being of greater importance where there is a full establishment of district councils. The divisional council usually consists of the recognized heads of the native authorities and some elected members. The individual or village councils are mainly of an advisory character.

The Governor has power to declare that there shall be a native authority for any specified area and may direct how it shall be constituted and as to whether one native authority may be subordinate to any other native authority. The provincial commissioners take action of this nature on behalf of the Governor, so have very extensive powers and responsibilities as to the general administration of their provinces. The chiefs are usually selected by the natives themselves through an electoral college. Other important officials are sub-chiefs and headmen whose offices are sometimes hereditary, but they are sometimes elected. They are usually ex-officio members of the local councils.

The Government recently instituted a local government school to which officials and members of native councils go for a residential course of study. It is significant of the desire of the native Africans in Tanganyika to learn how to administer their affairs that this school was established at the request of the native authorities and that they meet the cost. The school is housed in permanent buildings, now being enlarged, at Mzumbe about 150 miles from Dar-es-Salaam, and has a permanent staff of African instructors under a European principal who is a retired Colonial administrator. Part of the premises were used for a week for a study course on social services in Britain arranged by the British Council and of which I took charge. I then had the opportunity of meeting the African staff of the local government school, two of whom attended the course, and some officials and other representatives of native authorities. One of them was the secretary of the Rungwe native district council to whom I am indebted for this account of the administration of his district which has an area of 1885 square miles and a population of about 250,000. Incidentally, as perhaps showing the financial resources, or procedure, of this council, when I asked him whether his council was defraying the cost of his attending the course—involving a journey of 800 miles taking three days by bus and train—he said his authority had agreed to his attending but it was not possible to pay his expenses as there was no time “to call a meeting of the finance committee.”

When the British took over the administration from the Germans, in Rungwe, as in some other districts, two chiefs were selected from a number of headmen or members of the Royal Clan. The Chiefs in Council were constituted the Superior Native Authority and the headmen as the Subordinate Native Authority. The headmen refused, however, to obey the chiefs, so in 1935 a Superior Native Authority was constituted of ten newly appointed chiefs, but this again was not satisfactory, and in 1948, a more democratic system was evolved after the district commissioner had held meetings in various areas. Five rural native councils were then established. Each village elder—who is elected by the adult male taxpayers in the village—calls a meeting and at least two candidates are nominated to represent the village on the council. Other candidates are also nominated by those representing certain other interests. The village elders of all the villages form collectively an electoral college and they attend in one place and elect the council from the various candidates nominated. The council consists of twelve members elected for two years, four being headmen, four village elders and four

commoners. A chairman is elected from their membership. Each native council chooses three of its members to sit on the district council which is the Superior Native Authority of the district. Besides the elected members there are on this council five members appointed by the provincial commissioner who are normally government officials. The district council exercises general supervision, and some control, over the native councils which have considerable local responsibilities. The district commissioner acts as the general adviser to the council.

This short description of the native administrative arrangements in one large district is typical of other districts but, as I understand the position, there is no general uniformity and some native authorities have greater powers than others. The aim is to leave the conduct of local affairs as much as possible to the recognized tribal authorities and to develop gradually a modern system of local government administration. Native authorities are responsible for such diverse services such as: primary education, water supply, roads and bridges, forestry, welfare centres and the provision of some medical services.

LOCAL GOVERNMENT SALARIES

In common with the remainder of the press, we received information from the National and Local Government Officers Association on the subject of their special conference held on April 3. We were, however, requested not to comment on those papers in advance and, after the conference had issued its own statement to the press, comment was not urgent. The conference is said to have been the first to be held on requisition from branches of the Association, in the forty-nine years of the Association's history. Fifty-five branches signed the requisition and guaranteed the costs of the resultant conference. This cost was refunded (doubtless properly) by the Association, when it was seen that the conference was overwhelmingly in favour of the propositions put forward by the branches who had called for it. The published statement demanded drastic revision of salaries paid to persons in the service of local authorities and of the other organizations which are now within the Association's compass. As stated in the published documents, the grievance is that, whereas prices have increased by forty *per cent.* since national scales of salary for local government officers were agreed in 1946, the pay of those in the lowest grade (at its maximum) has risen by not more than thirty *per cent.*, and of those at the top of the local government pay roll by no more than five *per cent.* "The result was that the higher grade man had to-day only three-quarters of the purchasing power he had in 1946" (we are quoting from a statement issued by the public relations officer of the Association).

There is here the same claim to a "differential" which is often found in trade union claims. The wish to have an adequately differentiated factor, where there are employed persons in hierarchic grades, is natural and normal—though we seem to remember that Mr. Attlee, when Prime Minister, deprecated its adoption as a principle. Surely, however, it is the normal experience of all salaried persons, and also of professional men and women who are paid by fees, that the purchasing power they dispose of is now not more than three-quarters of what it was when the war came to an end. We find it difficult to see that local government officers as such, or persons employed in the nationalized industries, have a better claim to maintain the position they enjoyed in this respect in 1946 than other members of the public. Again, it is surely a familiar feature of wage increases in modern times that more is given to the low paid than

to the highly paid employees. This is part of the levelling up which has been so marked a feature of our time, and is by no means peculiar to local government employment. It may be true that local government service no longer attracts "the grammar school leavers who had formerly provided most of its staffs," though we think it is too early to assert with confidence that this falling off in recruits from that particular source is due to the absence of differentials in payment; we understand it is common experience that the juveniles of the present day, especially the males, no longer regard an office stool as the satisfactory jumping off place for their future lives. The published statement speaks of some of the highest officers leaving, to take up better paid employment in industry, but it has always been the case (and always must be) that industrial employment or commercial employment is paid more highly in its upper ranges than any form of public service. This problem of losing "the brightest officers," who have been holding established positions for some years, is a different one from that of the school leavers. At the point where school leavers come into the service the pay is in fact not disproportionately low by comparison with other occupations. When young people go elsewhere this is, we believe, due not so much to immediate financial prospects, which at that age do not seem of first importance, as to the desire to obtain more interesting work—often work of a manual type, which a generation ago would have been regarded as of lower social status.

Before revised salary scales for local government and similar employments can come into force, negotiations will be needed with the associations of local authorities. The newspapers say that steps towards those negotiations are being taken, and that those associations are willing to discuss the wage structure, without committing themselves to a general increase. A writer in *The Times* on April 23 suggested that employees in the best paid section of the purely clerical staff, enjoying the national scales, were too highly paid. Certainly a scale rising to £470, more than £9 a week, means that a lot of money is handed by the public to persons engaged in routine duties, who have a shorter working week than occupations of comparable remuneration, many of which involve a higher degree of skill. Existing contracts must be honoured, but if this grade could be split

for future entrants there might, at the cost of making it less attractive than at present for school leavers, be some economy. It may be doubted, however, whether much money would become

available towards the substantial increases now desired by the staffs in higher grades; if such increases have to be conceded, it will have to be at the expense of the public.

WEEKLY NOTES OF CASES

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Hallett and Pearson, JJ.)

R. v. TOMLIN

April 12, 13; May 3, 1954

Criminal Law—Embezzlement—General deficiency—Misappropriation of small unidentifiable sums over long period.

APPEAL against conviction.

The appellant was convicted at Hastings Quarter Sessions of embezzlement and he appealed against his conviction on the first count of the indictment which alleged that, on a day unknown between March 14 and September 26, 1953, being servant to one R, he fraudulently embezzled the sum of £420 15s. 3d. in money received by him for or on account of the said R. The appellant had been employed for many years in a shoe shop at Hastings and was manager of the business in 1952 when R bought the shop and retained his services. In March, 1953, a deficiency of stock was suspected and a careful check was taken. In September, 1953, another check was taken, which revealed that between the two stocktakings, goods to the value of £420 15s. 3d. had gone and no proceeds for those goods had ever been paid over by the appellant to R or were still available in the hands of the appellant for R. The appellant later, while denying dishonesty on his part, admitted to the police that there was a deficiency and subsequently made restitution. The recorder granted a certificate for consideration of the question whether the first count was bad in law as alleging the embezzlement of a lump sum or general deficiency arising from misappropriation of small unidentifiable sums over a number of months.

Held, applying *R. v. Balls* (1871) 35 J.P. 820 and following *R. v. Lawson* (1952) 116 J.P. 195, that in the ordinary case, where it is possible to trace the individual items and prove an embezzlement, a count alleging a general deficiency ought not to be included in an indictment, but, where the individual items cannot be traced and the evidence for the prosecution makes it clear that there has been an embezzlement of either the whole or part of a general balance, it is proper to charge the embezzlement of a general balance on a day between specified dates. In the present case the latter proposition applied, and the appeal must, therefore, be dismissed.

Counsel: *Neil Lawson* for the appellant; *Fordham* for the Crown. Solicitors: *Herington, Willings & Penry-Davey*, Hastings; *N. P. Lester*, town clerk, Hastings.

(Reported by T. R. Fitzwalter-Butler, Esq., Barrister-at-Law.)

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Hilbery and Donovan, JJ.)

SHAVE v. ROSNER

May 6, 1954

Road Traffic—Motor vehicle—Use on road when part in dangerous condition—"Causing" of offence—Delivery by owner to garage for repair—Car handed back to owner with insufficiently tightened wheel nuts—Liability of proprietor of garage—Motor Vehicles (Construction and Use) Regulations, 1951 (S.I., 1951, No. 2101), regs. 72 (1), 101.

CASE STATED by County of London justices.

At Bow Street Magistrates' Court an information was preferred by the appellant Shave, a police officer, charging the respondent, Emil Rosner, a garage proprietor, with, on July 11, 1953, unlawfully causing to be used on the road a motor vehicle, a part of the vehicle being in such condition that danger was caused to a person on the road, contrary to regs. 72 (1) and 101 of the Motor Vehicles (Construction and Use) Regulations, 1951.

It was found by the justices that on July 11, 1953, a Morris motor van was left at the respondent's garage for the brakes to be re-shoed. The brakes were re-shoed by the respondent's mechanics. A little later the same day, while the owner was driving the van, the front nearside wheel came off and knocked down and injured a woman walking on the pavement. The wheel came off because the hub-nuts had not been properly fastened by the mechanics when they replaced the wheels after re-shoeing the brakes. The respondent, after he had been told of the accident, expressed his regret, told the owner that he had dismissed the workman responsible for the repair, and offered to repair the van free of charge. The justices dismissed the information and the appellant appealed.

Held, that, when once the car had been delivered to the owner, the respondent could not exercise any degree of dominance or control over its use, and, therefore, the justices were right in holding that the respondent had not caused the offence to be committed, and the appeal must be dismissed.

Counsel: *Paul Wrightson* for the appellant; *Aldous* and *Vowden* for the respondent.

Solicitors: *Solicitor, Metropolitan Police*; *Sandford, Mervyn, Taylor & Co.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MAGEE v. MORRIS

May 5, 1954

Police—Search warrant—Licensed premises—Execution on Sunday—Lord's Day Observance Act, 1677 (29 Car. 2, c. 7), s. 6—Magistrates' Courts Act, 1952 (15 and 16 Geo. 6 and 1 Eliz. 2, c. 55), s. 102 (3)—Licensing Act, 1953 (1 and 2 Eliz., c. 46), s. 152.

CASE STATED by Birkenhead justices.

A warrant was issued by a justice of the peace under s. 152 of the Licensing Act, 1953, authorizing the police to search the premises of the Hamilton Social Club, Birkenhead, to see whether offences under the Act were being committed. The warrant was executed on Sunday, November 8, 1953, and, as a result of the search, informations were preferred by the respondent Morris, a police officer, against the appellant, John Magee, and other persons visiting the club alleging various offences under the Act of 1953. At the hearing of the informations, counsel for the appellant took the preliminary point that the proceedings were bad, in that the police had no authority to execute the warrant on a Sunday, having regard to s. 6 of the Lord's Day Observance Act, 1677.

The justices were of the opinion that, having regard to s. 102 (3) of the Magistrates' Courts Act, 1952, and s. 152 of the Licensing Act, 1953, the police had authority to execute the warrant on a Sunday, and the appellant appealed.

By s. 6 of the Lord's Day Observance Act, 1677: "... no person or persons upon the Lord's day shall serve or execute, or cause to be served or executed, any ... warrant ... (except in cases of treason, felony, or breach of the peace), but that the service of every such ... warrant ... shall be void to all intents and purposes whatsoever". By s. 102 (3) of the Magistrates' Courts Act, 1952: "The issue or execution of any warrant under this Act for the arrest of a person charged with an offence, or of a search warrant, shall be as effectual on Sunday as on any other day".

Held, that there was nothing in the Magistrates' Courts Act to limit the class of search warrant to which s. 102 (3) applied and there was no difference between one search warrant and another; as s. 152 of the Licensing Act, 1953, empowered a magistrate to issue a search warrant, s. 102 (3) of the Act of 1952 applied, and such a warrant could lawfully be executed on a Sunday; and, therefore, the appeal must be dismissed.

Counsel: *C. J. I. Cunningham* for the appellant; *Paul Wrightson* for the respondent.

Solicitors: *Field, Roscoe & Co.*, for *Berkson & Berkson*, Birkenhead; *Sharpe, Pritchard & Co.*, for *N. B. Jennings*, Salford.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MIDDLETON v. ROWLETT

May 5, 1954

Magistrates—Procedure—Case for prosecution closed—No evidence of identity of alleged offender—Refusal to allow witness to be recalled.

CASE STATED by Leicestershire justices.

At a court of summary jurisdiction at Loughborough an information was preferred by the appellant, John Henry Middleton, a police officer, charging the respondent, Jack Rowlett, with dangerous driving. At the hearing of the information it was submitted at the close of the prosecution's case that there was no evidence that the respondent was the driver of the car, whereupon the prosecutor's solicitor applied to recall a police witness. The justices refused the application on the ground that the omission to prove the identity of the driver was a matter of substance and not merely of form, and that they had a discretion, which must be exercised judicially, whether or not to permit the case for the prosecution to be re-opened. The appellant appealed.

Held, distinguishing *Duffin v. Markham* (1918) 82 J.P. 281, which related to the omission to prove a statutory rule or order, that, as the evidence materially touched the substance of the matter before them, the justices were entitled to exercise their discretion in the way in which they did, and the appeal must be dismissed.

Counsel : *Seaton* for the appellant ; *H. A. Skinner* for the respondent. Solicitors : *Vizard, Oldham & Co.*, for *Bartlett, Walters & Parry*, Loughborough ; *Taylor, Jelf & Co.*, for *Philip J. Hammond*, Leicester. (Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

DENNIS v. TAME

May 4, 1954

Road Traffic—Driving uninsured motor vehicle—Conditional discharge—Aircraftsman—Offender already dealt with by commanding officer for breach of discipline—No special reasons for failing to disqualify—Road Traffic Act, 1930 (20 and 21 Geo. 5, c. 43), s. 35 (1).

CASE STATED by Bedfordshire justices.

At a court of summary jurisdiction at Bedford an information was preferred by the appellant, Thomas Dennis, a police officer, charging the respondent, Richard William Tame, an aircraftsman, with unlawfully using an uninsured motor-car on a road, contrary to s. 35 (1) of the Road Traffic Act, 1930. The appellant pleaded Guilty. He had driven the car from the main gate of the Royal Air Force station at

Cardington on the main road, and, when some hundred yards along the main road, he was stopped by a police officer and asked to produce his insurance certificate. He said that he had not got one. The justices, having been informed that the respondent had been dealt with by his commanding officer for a breach of discipline and given seven days' detention, ordered that he be conditionally discharged, and, accordingly, by reason of the provisions of s. 12 (2) of the Criminal Justice Act, 1948, did not impose any disqualification. The appellant appealed on the ground that there were no special reasons entitling the justices from refraining from disqualifying.

Held, that neither the provisions of the Criminal Justice Act, 1948, relating to probation, nor those relating to absolute or conditional discharge, were to be used to avoid imposing disqualification unless the court found circumstances which would amount to special reasons for failing to disqualify; that the fact that the respondent had been punished by his commanding officer was a matter relating to the offender and not the offence and could not amount to a special reason; and that the case must be remitted to the justices with the direction that they must impose a penalty and disqualification, which might be limited to private motor vehicles.

Counsel : *MacDermot* for the appellant ; *Paul Curtis-Bennett* for the respondent.

Solicitors : *Gibson & Weldon* ; *Theodore Goddard & Co.* (Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

LOANS SANCTIONED IN 1953/54

The Ministry of Housing and Local Government have recently published figures of loans sanctioned during the quarter ended on March 31 last, thus completing the tale for the financial year ended on that date. We summarize the year's figures below :

Quarter ended	Housing (including advances for House Purchase)	Education	Sewer- age and Water Supplies	Other Services	Total
	£ 000s	£ 000s	£ 000s	£ 000s	£ 000s
30 June, 1953	86,918	16,406	9,824	8,487	121,635
30 Sept., 1953	97,129	12,782	8,991	9,008	127,910
31 Dec., 1953	82,330	12,228	7,509	7,730	109,797
31 March, 1954	88,646	25,021	10,351	10,983	135,001
	355,023	66,437	36,675	36,208	494,343
Percentage of Total	72	13	8	7	100

The total is only £20m. in excess of the figure sanctioned for 1952/53, largely because the considerable rise in loans sanctioned for housing in 1952/53 as compared with 1951/52 has not been repeated in 1953/54. These figures do not, however, imply any slackening of the housing drive; our readers will recollect the recent statement of the Minister for Housing at Liverpool that there was nothing he could foresee which could prevent something like 340,000 houses being built during this year. Mr. Macmillan also announced the Government's intention to keep up this rate of building as long as there is a need for it.

Education requirements show the biggest increase in 1953/54 with a jump of £20m. over the previous year. In this case also the pace is unlikely to slacken.

SHEFFIELD PROBATION REPORT

In many reports of probation officers there are to be found some signs that juvenile delinquency is gradually becoming less, and that the magistrates are impressing upon parents that they must accept responsibility for their children. In her report for 1953, Miss K. E. Fowler, principal probation officer for the City of Sheffield, suggests that among the reasons for improvement is the fact that fewer mothers are going out to work. She thinks that the publicity given to conferences on juvenile delinquency may also be having its effect.

Often it is the mother of the juvenile offender who attends the court, asking that her husband may be excused because of his work. That may sometimes be reasonable, but it is possible that her husband has little idea of what has been going on and is not sufficiently conscious of his responsibilities. On this question, Miss Fowler writes "More

fathers have attended the juvenile courts when their children have been summoned, but more would attend if they were seriously interested in the welfare of their children. In this way many fathers would probably for the first time realize their own responsibility in the upbringing of the family, and the probation officer's task in the event of a probation order being made would be less difficult if the full facts as revealed in the court were known to the father."

As is fairly well known the probation officer often finds there is something wrong in the home life of the probationer and has to make some attempt to improve conditions, perhaps acting as mediator between husband and wife. How complicated the position may prove is illustrated by some of the instances related in this report. The following paragraph shows why the duties of probation officers are increasing and cannot be measured by reference only to the number of probationers. "The demands made upon the probation officers are increasingly heavy, not only by individuals but by other Social Services, including some from other towns. In turn the probation officers must necessarily seek the help of other agencies in many of their cases. The work of the Service has increased, not so much by the number of persons under statutory supervision, as by the complexity of the problems which are brought to us for a solution."

The work of the case committees is evidently carried out thoroughly and systematically. The probation committee has appointed four case committees and these committees have each met quarterly. An official report can thus be made four times a year on every case under supervision. The members of the case committees have frequently been able to give the officers most valuable advice and timely assistance in dealing with a person under supervision.

MIDDLESBROUGH POLICE REPORT

Thanks largely to press and radio, members of the general public are becoming aware that there is much they can do to help the police in the prevention and detection of crime, though they seem still rather unmindful of the need for securing premises and for avoiding leaving valuable articles in motor-cars, often unlocked. It is gratifying to read of co-operation between public and police, as we do in some of the annual reports. Mr. A. E. Edwards, O.B.E., M.C., M.M., chief constable of Middlesbrough, writes in his report for 1953 :

"I again place on record my appreciation of the many instances in which members of the public have assisted the police in the detection of crime by communicating suspicious circumstances to us immediately, and in some cases by active participation in the detection and apprehension of criminals. There is much greater co-operation between the law abiding citizen and the police than was evident some years ago and I am satisfied that members of the public are, in general, much more conscious of the value of their assistance than was formerly the case. It is, of course, entirely wrong for any person to assume that the detection of crime and the bringing to justice of criminals are matters for police concern only and that the police by their own endeavours should be able to satisfactorily cope with all crime problems once a crime has been committed, if the perpetrator was not caught in the act."

Unfortunately, Mr. Edwards has to report a record number of crimes, and he comments that until the force has more men on the beat it cannot hope to do better. Motor-cars and crews, he says, have their uses and advantages, but three or even four men in a car cannot see or hear what one man on foot can, and it is the patient alert constable on the beat who has the best chance of detecting the criminal on the job, as well as preventing crime by the very fact of his obvious presence.

Mr. Edwards feels that an increase in crime when there is practically full employment and when so much is done in the way of social service gives cause for concern, and he seems to suggest that a present tendency towards leniency and short sentences may perhaps be a contributing factor. We agree that short sentences on persistent offenders, especially when so much remission can be earned, might mean that such men were too often at large, but we think that for some little time past the higher courts have been passing sentences of some severity in the case of persistent or dangerous criminals.

The state of crime in Middlesbrough is seen from the statement that in 1953 the number of crimes was almost twice as many as eight years ago and three times as many compared with twenty-five years ago. The chief constable urges the great importance of new houses and police headquarters, both or either of which would help in the fight against crime. The force is below strength and, as other reports show, difficulties about housing stand in the way of recruitment.

Crimes of violence are still increasing, as well as offences of indecency. As to juvenile crime, the position is that although the number of crimes is the second highest total ever recorded, the number of juveniles concerned in these offences is the lowest since 1947, which gives a little hope for the future. There is some consolation also in the statement that during the year under review, although statistical returns show an overall increase in the number of crimes reported, there again was an absence of the types of crime which would cause any undue apprehension on the part of the community in general.

In connexion with road safety to which much attention has been given there is an interesting feature in the report. Road Safety Dog displays were presented by the Accident Prevention Council. Demonstrations were given and training classes held. A competition was held in which local people, whose dogs had been trained at the classes, competed. As the report says, "This road safety effort was well worth while when one considers that 322 dogs were killed or injured on the roads in Middlesbrough during 1953, and that they are always a source of danger when straying on the highway."

THE AGED SICK AND INFIRM

According to the annual report of the British Medical Association, the council of the association has considered the need for co-ordination between the various authorities caring for the aged and chronic sick and has agreed that this requires urgent consideration. Having regard to the clinical, social, and economic considerations involved, it believes that no piecemeal development is likely to be adequate to the needs of the situation, but that what is required is a closely integrated service for the treatment and rehabilitation of all chronically sick persons including the elderly. A joint sub-committee has accordingly been appointed composed of representatives of the central consultants and specialists, general medical services, and public health committees to study the problem. Assistance will be invited from practitioners with special experience in this field. The aim is to formulate practical recommendations which can be put into operation without delay. It is recalled in the report that the problem of the care and treatment of the elderly and infirm was reviewed by a special committee of the association which reported in 1949 and some of the recommendations of that committee have been put into effect.

THE CARE OF OLD PEOPLE NATIONAL CONFERENCE

The seventh national conference of the Care of Old People arranged by the National Old People's Welfare Committee was held at Bourne-mouth from April 1-3. At the first session when the chair was taken by Mr. John Moss, C.B.E., chairman of the National Committee, an address was given by Professor F. A. E. Crew, M.D., D.Sc., Professor of Public Health and Social Medicine at Edinburgh University. He said there was need for further and intensified inquiry concerning the peculiar personal, social and medical requirements of the old and concerning the ways in which these requirements can best be met. As to the problem generally, he emphasized that it is not the actual number of the senescent in the population but these numbers relative to the total population size, which are creating difficulties. Today the expectation of life at birth for a male is sixty-six years, and for a female is seventy-one, compared with forty-four and forty-eight years respectively in the last decade of the last century. But in this period the expectation of life of people aged sixty has increased only slightly. The man of sixty can now expect to live another fifteen years, compared with 13½ years fifty years ago. The woman of sixty can expect to live a

further eighteen instead of the fifteen years fifty years ago; so there has not been any change in the higher age groups at all comparable with that which has affected the younger. Professor Crew pointed out that when referring to the elderly it is easy to fall into the trap of assuming that they constitute a single homogeneous group with common and uniform needs. This is not so. There are the healthy and self-reliant, the frail, the incapacitated, the chronically ill, and the lonely.

The next speaker was Dr. Arthur Pool, M.B., Ch.B., consultant psychiatrist to the Oldham and Rochdale Hospital Group, who spoke on "Preparation for retirement" and suggested that many elderly people become depressed because after their retirement they moved to another area and by an unwise choice of location for retirement are unhappy. In the course of the discussion on these two addresses, Dr. Nairn Cowan, Medical Officer of Health for Rutherglen (Scotland), described a health centre for old people which has been established by his department and provides means for the detailed clinical and medico-social assessment of apparently healthy people and those suffering from ailments which would not usually take them to hospital. Each person is introduced to the centre by his own doctor and there is a close understanding and co-operation between the general practitioners and the team which staffs the centre. Voluntary workers help with the social and personal problems which arise. Dr. Cowan said he was sure the centre, since its establishment in 1952, had proved to be a successful experiment and a similar scheme might be very useful elsewhere. Another speaker mentioned a series of lectures on some aspects of the problems of old age which were organized at Exeter by the Institute of Public Administration with the co-operation of the University College of the South-West and the National Council of Social Service which have since been published under the title "Living Longer."

POWERS OF LOCAL AUTHORITIES

The local authorities associations and particularly the County Councils' Association are constantly reiterating the view that local authorities should be allowed to manage their own affairs without interference from any government department. They will be interested therefore to note the views on this matter which were expressed by Lord Carrington when, on behalf of the Government, he was dealing in the House of Lords with the Slaughter-houses Bill. It had been suggested by another peer that the extension of the period for which a slaughterhouse licence might be given should be subject to the consent of the Minister of Food instead of being in the discretion of the local authority particularly because the Minister may have a contingent financial interest in the matter. This speaker felt, further, that if the matter was left to the discretion of the local authorities they might act under different principles, for different reasons and on account of different ideas. Lord Carrington said, however, that he felt very strongly that Parliament should be extremely careful not always to assume that local authorities are not capable of deciding things for themselves; they have local knowledge and through their associations they had given an assurance that they intended to carry out the policy of the government as regards slaughter-houses. As well as local knowledge they have, said Lord Carrington, the will to use it and he thought it would be very much better to leave it to them without putting another additional power in the hands of the Minister of Food. Lord Carrington, or the Government for which he was speaking, was not however quite consistent as in regard of some other duties imposed on local authorities by the Bill he contended that it was proper that the decision of the local authority should be a matter for review by the Minister.

LINCOLN POLICE REPORT

The chief constable of the City of Lincoln is able to report a decrease in the number of crimes in 1953 as compared with 1952, and the high percentage of 70.7 for crimes detected. There was a slight decrease in crimes committed by juveniles.

There was useful co-operation with the county constabulary, and wireless played its part. All police vehicles are fitted with two-way wireless and a twenty-four hour wireless car cover was maintained in the city. Close liaison was maintained between the city police information room and that of the Lincolnshire Constabulary with mutually beneficial results. Seventeen arrests were affected during the year by the C.I.D. as a result of this liaison and ten by wireless car crews.

In the campaign to reduce road accidents the Lincoln police have evidently been active.

Talks on road safety and/or safe driving were again given to military personnel, both male and female, regular and Territorial Army, at local stations; to U.S.A.F. personnel and members of the Air Training Corps, to first year students at the Training College, to parent-teacher associations, and at children's matinees at cinemas. The urgency of the problem is indicated by the figures for road accidents, 816 in 1953, an increase of sixty-four as compared with 1952, and 119 more than in 1951.

REVIEWS

Ryde on Rating. Second Supplement to Ninth Edition. By David Widdicombe. London: Butterworth & Co. (Publishers) Ltd., and Shaw & Sons, Ltd. Price 10s. 6d. net.

Ryde on Rating is so well established, as the leading textbook on its own subject, that the legal world at large will welcome this new supplement. The current edition stated the law as at August 1, 1950, and there came out, concurrently, a first supplement relating to s. 76 of the Local Government Act, 1948. The subsequent repeal of that section is one of the reasons why the present supplement is needed. There are also a certain number of new cases, and some important decisions of the Lands Tribunal. The work has been prepared upon the lines usually followed in supplements to Messrs. Butterworths' major textbooks. That is to say, the new matter is given with marginal references to the pages in the main volume, and at the end the new statutes are set out so far as necessary. These include some provisions which are not at first sight connected with rating, such as sections of the Arbitration Act, 1950, the Magistrates' Courts Act, 1952, and the Vehicles (Excise) Act, 1949. The supplement is completely up to date, as is evidenced by the inclusion of the New Valuation Lists (Postponement) Order, 1954, which came into force in March, and of course the Valuation for Rating Act, 1953, which had so important an effect upon the gross value of dwelling-houses and other private premises, is printed in full. The singular completeness for which *Ryde* is justly valued is illustrated by the inclusion of a section from a local Act in force in London, which in 1953 dealt with the rating of premises in diplomatic occupation.

The supplement has been prepared by the learned editor in consultation with the editors of the ninth edition, and that edition with the supplement can be bought for 90s. net.

The Legal Mind. By Gerald Abrahams. London: H. F. L. (Publishers) Ltd. Price 18s. net.

This is a new sort of law book. The author, who is a member of the bar, has evidently made a close study of the practice of advocacy, which is the side of legal work with which the book is most concerned. His sub-title is "an approach to the dynamics of advocacy," and his declared purpose is to induce lawyers, and especially pupils and young lawyers, to pay more attention to the "psychological standpoint." The function of advocacy is to establish the client's case, by informing the court of the requisite facts, and inducing the court to regard those facts in the light of that view of the law which is the better for the client. This effect can be obtained in various ways, which are explained in successive chapters of the book. The advocate can injure his client's case by insufficient understanding of the way the court is likely to regard it. As many apparently good cases have been ruined by over-elaboration in presentation as have been lost through failing to tell the court as much as ought to have been told. Moreover, the advocate's command of language, and skilful use of literary knowledge, are important. The learned author (though here and there we thought his own English not as clear as it might be) properly discourages the practice of using careless phrasing or deliberate vulgarisms, in the hope of making a jury feel at home. This is a valuable (and in our opinion a badly needed) lesson. It is a pity that the proof reading is distinctly poor—words have been printed twice, the use of capital letters is capricious, and citation of law reports is slovenly. Nevertheless, so far as solid merits go, we have found this an interesting and stimulating little book.

Woodfall's Landlord and Tenant. By Lionel A. Blundell, With Assistant Editors. Twenty-fifth Edition. London: Sweet & Maxwell, Ltd. Price 6 gns. net.

Since there are at least three established textbooks, more or less of equal size, upon the law of landlord and tenant it is hardly to be expected that the general practitioner in law will provide himself with all of them. It must therefore be to some extent a matter of past habit and of personal taste, whether he obtains *Woodfall* or one of the others. A major local authority (or any other buyer of law books such as a public library, which is in a position to indulge in more than the bare minimum of textbooks) will be likely to buy more than one. Whether the purchaser is obliged to restrict himself, or can make more sure of finding what he wants in a textbook by having more than one, his mind will be certain to turn to *Woodfall* as one of the possibilities. The publishers claim that it is the oldest law book extant, which is actually in use at the present day as a modern textbook. It first appeared in 1802 and has been continually revised and brought up to date: in fact the present edition, nominally the twenty-fifth, is actually the thirty-second, because there were aberrations in numbering at an early stage. Fifteen years have now elapsed since the twenty-fourth edition, which was brought out by the present senior editor. Inevitably in that interval, when there

was a good deal of new law, *Woodfall* lagged behind its rivals; it now takes its place as the most up-to-date work upon its subject. Although it is nominally complete only as on October 1, 1953, some later matter was inserted in the proofs as they were passing through the press, and special supplements will be published as soon as the Housing Repairs and Rents Bill and the Landlord and Tenant Bill, now before Parliament, have received Royal Assent.

The work begins with a general explanation of the nature of the relation between landlord and tenant, proceeding then to deal with the topic "Who may grant leases" and different types of leases and, at some length, with the nature of the contract for a lease. Under this heading come the action for specific performance (in this context), and an explanation of the principles on which damages may be recovered. This is followed by an explanation of the different forms of tenancy, and the different types of rent. Recovery of rent by distress or action is explained; the work then goes on to a number of detailed matters such as rights of way, the preservation of the premises, fixtures and so forth, leading up to determination of the tenancy and recovery of the premises by the landlord.

The expository or narrative portion of the work runs to 1,270 pages, followed by appendices embodying the statutes, statutory instruments, and so forth, which cover rather more than four hundred pages. This makes a large work for daily use, and in places the printers have used rather smaller type and closer printing than some readers will find convenient. This is, however, a minor and perhaps unavoidable defect, since the learned author and his assistants had to compress so much into the book. Practitioners who have used *Woodfall* in the past will welcome the new edition, and those who have not done so, and obtain it for the first time, can rely with confidence upon it.

Local Government Elections. By A. Norman Schofield. Third Edition. London: Shaw & Sons, Ltd. Price 65s. net.

The first edition of this work appeared early in 1949, dealing with the Representation of the People Act, 1948, and the statutory instruments thereunder, and the then outstanding bits and pieces of earlier legislation. We remarked at the time that it was likely to establish itself as a textbook suitable for regular use by registration officers, and others concerned with franchise law, and, so far as our knowledge goes, it has outlived certain rival publications; it has certainly proved its value in practice. The present edition has been made necessary by the passing of new statutes, including the consolidating Act for which (with support in our review) the learned editor pleaded in the preface to the first edition, and a number of statutory instruments. These include the Representation of the People Regulations, 1950, and two amending series, and the three sets of Election Rules issued in 1951 and 1952. The plan of the book is the same as in the earlier editions, which has proved satisfactory. The first part sets out chapter by chapter the various steps to be taken for holding local government elections, and in the second part the statutes and statutory instruments are printed. A peculiarity of the first edition, which is continued in that now before us, is that the index deals only with the first, or narrative, portion of the book. The enactments and statutory instruments in the second part are picked up as required, by referring to their subject in the first part. This means that the index itself is not overloaded, and is rather easier to use than it would have been if the detail of the provisions in the second part had been included. We noticed this as an interesting experiment, in our review in 1949, but in the meantime have realized one slight objection. It does sometimes happen that a user of the book wishes to refer to one of the governing enactments direct; inasmuch as a person's mind seldom moves with another mind upon the best catch-heading for an index, the key paragraph of the narrative may not be found quite easily. We suggest for the editor's consideration, if he maintains the same plan in the next edition, that the table of statutes at the beginning of the book should be expanded to include statutory instruments, and perhaps that some sort of analytical statement of the effect of provisions in Part II would be worth while.

Subject to this point, it can be said that the work is conveniently arranged, and that any required topic can be quickly found and fully studied in its pages. The set-out is generous, so that the pages are easy to read. In the past five years we have felt ourselves able to rely upon this work for our own purposes, and we can recommend it to our readers.

NOTICES

THE ASSOCIATION OF CHILDREN'S OFFICERS

The fifth annual conference will be held at Hove from October 7 to 9, 1954, inclusive, under the Presidency of Miss J. Cooper, B.A., County Children's Officer, East Sussex.

CORRESPONDENCE

The Editor,
*Justice of the Peace and
Local Government Review.*

DEAR SIR,
**RATING LAW—COLLECTION—DISTINCTION BETWEEN
COMMENCING DATES OF LIABILITY TO PAY AND PAYMENT
ON DEMAND**

Having somewhat belatedly perused the article on "Some Points of Rating Law" at p. 220, may I be permitted to correct a misstatement which appears at p. 221? It is there stated, in relation to the application to proceedings for the recovery of general rate of the six year period prescribed by s. 2 (1) (d) of the Limitation Act 1939: "This limitation period runs from the making of the rate (and a rate is to be deemed to have been made on the date on which it is approved by the local authority: Act of 1925, s. 4 (1)), and therefore a demand note cannot be lawfully served after the expiry of six years from the making of the rate. In other words, liability to pay a rate runs from the date of making of the rate, not from the date of the demand."

While the liability to pay general rate arises as soon as the rate is made and published, the statement that the limitation period runs from the date of making of the rate does not correctly represent the decision in *China v. Harrow U.D.C.* [1953] 2 All E.R. 1296; 118 J.P. 41; see the counsel given by Lord Goddard, C.J., in that case (at 2 All E.R. 1298) that "one must not confuse the debt with the remedy." The case referred to decided that the period of limitation runs, in the case of non-payment of general rate, from the date on which the cause of proceeding accrues and that the cause of proceeding is the failure to pay on demand (as distinguished from the liability to pay, which arises when the rate is made and published) and, accordingly, that the period of limitation runs from the date of demand. The distinction to which attention is drawn may not be of great practical importance but it is juridically necessary.

Yours faithfully,
M. HOWELL.

Town Hall,
Aberdare, Glam.

The Editor,
*Justice of the Peace and
Local Government Review.*

DEAR SIR,
**HOUSING ACT, 1936, s. 11—REASON FOR UNFITNESS—
OFFICIAL REPRESENTATION IN WRITING**

I was interested to read P.P. 4 on April 10, 1954. In his query, PRODEN did not quote enough of s. 11. The section says that "Where a local authority upon consideration of an official representation, or a report from any of their officers or other information in their possession, are satisfied that any house which is occupied . . . is unfit for human habitation . . ." The official representation must be in writing and, if PRODEN requires particulars of the official representation, then if his client will attend at the office of the local authority and pay 1s. under the byelaws she can look at the official representation and take any particulars she may require.

Yours faithfully,
C. BUCKLEY.

W. E. Price & Co.,
Solicitors,
3 Bowling Green Street,
Leicester.

[We do not follow the reference to paying 1s. "under the byelaws." We imagine our learned correspondent has in mind s. 283 (1) of the Local Government Act, 1933, which deals with inspection of minutes at a shilling fee. Byelaws do not come into this matter. We agree that if there has been an official representation in writing, or a written report or other written information, this ought to be appended to the relevant minutes. But the council are not precluded from acting upon unwritten representations or reports, bad practice though this would be, and we do not consider that the person affected ought to be left in the dark as to what they have received, and what has to be looked for if he does search the minutes.—Ed., J.P. and L.G.R.]

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 42.

DOGS (PROTECTION OF LIVESTOCK) ACT, 1953. A CONVICTION

An engineer was the first man to be charged at Newcastle Magistrates' Court with offences under the Dogs (Protection of Livestock) Act, 1953. He appeared recently, and pleaded Guilty to two charges, each of which alleged that he was the owner of a dog that had been worrying livestock on agricultural land, contrary to the provisions of s. 1 of the Act. The defendant, who said that he had had his dog destroyed immediately when he heard that it had been worrying sheep, was fined £1 on each charge, and ordered to pay £1 11s. 4d. costs.

COMMENT

Although this Act received the Royal Assent on July 14 last year, there have been few charges brought under it up to the present time, and therefore it may be opportune to outline very shortly, the principal provisions.

Section 1 (1) enacts that if a dog worries livestock on any agricultural land, the owner of the dog, and, if it is in the charge of a person other than its owner, that person also, shall be guilty of an offence.

Section 1 (2) defines worrying livestock as meaning attacking or chasing it in such a way as may reasonably be expected to cause injury or suffering. Subsection (3) of s. 1 exempts from the provision of the section worrying by a dog if the livestock is trespassing on the land upon which the worrying takes place, and such land belongs to the owner or person in charge of the dog unless the owner or person in charge deliberately incites the dog to attack the livestock. Subsection (5) of s. 1 enables the Minister of Agriculture and Fisheries to exclude by Order from the provisions of the Act any land which, although agricultural land within the meaning of the Act, appears to him to consist mainly of mountain, hill, moor, heath or downland. "Agricultural land" is defined in s. 3 as meaning land used as arable, meadow or grazing land, or for the purpose of poultry farming, pig farming, market gardens, allotments, nursery grounds or orchards, and "livestock" includes cattle, sheep, goats, swine, horses and poultry.

Offences under the Act may be punished by subs. (6) of s. 1 by a fine of £10 in the case of a first offence, and in the case of a previous offence in respect of the same dog, by a fine of £50.

Section 2 of the Act limits the persons who may initiate prosecutions under the Act, and subs. (2) of the section entitles a police officer, if he has reasonable cause to believe that a dog found on agricultural land has been worrying livestock, to seize and detain the dog until the owner has claimed it and paid all expenses incurred by reason of its detention.

R.L.H.

No. 43.

A THEATRE LICENSEE CONVICTED

At Liverpool City Magistrates' Court recently, Mr. McFarland, the learned stipendiary magistrate, ruled that the licensee of a theatre was responsible in law for actions on the stage during the presentation of a play. Before the court the licensee of a local theatre pleaded Not Guilty to a charge that he had unlawfully for hire caused to be presented part of a stage play entitled "The Respectable Prostitute" before such part had been allowed by the Lord Chamberlain, contrary to s. 15 of the Theatres Act, 1843.

For the prosecution, evidence was given by a police officer that in the final scene the prostitute and her client were on the stage together. The girl was dressed in a nightdress, and what appeared to be a white nylon dressing gown of very low cut. The man, at the time, was speaking the last paragraph of the script to the girl of all the wonderful things he was going to do for her. He picked her up in his arms and carried her across the stage to a bed; he walked round the bed and laid her on her back on the bed: he then stepped back from the bed, looked at her and took off his jacket. He then got on to the bed alongside of her, and eventually deliberately lay on top of her, and made movements as if simulating sexual intercourse. That was going on when the curtain came down.

For the licensee, it was urged that he had been let down by the producer of the play, who was fined £30 with £10 10s. costs, at an earlier hearing for presenting the part of the play referred to above.

The court imposed a fine of £10 and ordered payment of two guineas costs.

COMMENT

The report set out above, for which the writer is greatly indebted to Mr. H. A. G. Langton, M.B.E., clerk to the Liverpool justices, shows how necessary it is for the preservation of decency that the hands of the Lord Chamberlain should not be tied in any way. From time to time it is suggested that this old Act should be reclothed in modern garb, and that what are described as hampering restrictions should be swept away. It may well be true that in the great majority of cases, good taste would suffice to preserve decency on the stage, but it is all too apparent from the report set out above that it is necessary still to re-enforce public opinion by statutory provisions.

It is possible to visualise circumstances in which a licensee, and indeed a producer, might find themselves saddled under the onerous provisions of s. 15 of the Act of 1843, with an offence of which they were wholly blameless, for if an actor spontaneously departs from the script or introduces gestures or actions not contemplated by the author without prior permission from the producer, it is difficult to see what the producer or *a fortiori*, the licensee, can do about it. Nevertheless on a strict interpretation of the section it would appear that a prosecution might well be successful.

The maximum penalty provided by s. 15 is £50, and it is to be remembered that by s. 43 of the Criminal Justice Act, 1925, it is provided that the court dealing with cases under s. 15 may, in addition to the fine, order that the licence, if any, of the theatre in which the offence is committed, shall be void or be suspended for a specified period.

R.L.H.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

COURT DELAYS

Mr. G. Thomas (Cardiff W.) asked the Attorney-General in the Commons whether he was aware that litigants, witnesses and jurors summoned to attend the High Court, assize courts or county courts, were frequently kept waiting one or more days before they were actually needed in court; and whether he would consult the Lord Chancellor with a view to taking steps to remedy that situation and to improve the arrangements of the work of the courts with a view to reducing legal costs and public inconvenience.

The Attorney-General replied that he was aware that litigants, witnesses and jurors were often kept waiting before their cases were called. Every effort was made to reduce the delay, but some waiting was inevitable if the courts were to sit continuously. As a number of Royal Commissions and Committee, including the Evershed Committee, had pointed out, that was a difficult problem and there was no easy solution to it while litigious business remained as heavy as it was at present and the shortage of court accommodation persisted. But he would certainly consult the Lord Chancellor about it.

LEGAL AID AND ADVICE ACT

The Attorney-General told Mr. E. Fletcher (Islington E.) that the Lord Chancellor was still considering representations made to him by the Standing Committee on Legal Aid and other bodies, urging that the remainder of the Legal Aid and Advice Act should be brought into operation without further delay.

MARRIAGE AND DIVORCE REPORT

The Attorney-General told Lt.-Col. M. Lipton (Brixton) that there had been thirty-seven meetings of the Royal Commission on Marriage and Divorce since the last public hearing of evidence. It was hoped that the preparation of the report would be completed by the end of this year.

OBSCENE BOOKS

Mr. J. McKay (Wallsend) asked the Secretary of State for the Home Department what steps he was taking to prevent further publication, sale and distribution of obscene books, which disclosed the names and addresses of the publishers.

The Under-Secretary of State for the Home Department, Sir H. Lucas-Tooth, replied that the Home Secretary was satisfied that the prosecuting authorities were fully aware of the importance of suppressing the traffic in obscene books at the source and he did not think any action was called for on his part.

A JUROR'S THOUGHTS

I have little legal knowledge
But I've loads of common-sense,
They would never prosecute him
If he had a good defence.

J.P.C.

PERSONALIA

APPOINTMENTS

Mr. J. S. Manyo-Plange, at present Puisne Judge, Nigeria, has been appointed Puisne Judge, Gold Coast.

Mr. Robert R. Thornton, deputy town clerk for Southampton, has been appointed town clerk for Salford in succession to Mr. H. H. Tomson, who retires in June after fifty years' service.

Mr. E. A. Trotman is to succeed Mr. F. G. Whittuck as clerk to the Keynsham, Somerset, justices.

Mr. Norman Frost, chief constable of Eastbourne, for the past seven years, has been appointed chief constable of Bristol in succession to Sir Charles Maby, who retires in September.

Mr. James L. Craig, at present deputy town clerk, has been recommended as successor to the late Mr. Charles Hornal for the post of county clerk for Aberdeenshire.

RETIREMENTS

Mr. J. W. Porter, town clerk of Gateshead for 24½ years, retires on May 31, and will be succeeded by Mr. C. D. Jackson, who has been deputy town clerk for seven years. Mr. Porter was previously assistant solicitor at Tynemouth, town clerk of Berwick-upon-Tweed, and town clerk of Hartlepool. Mr. R. D. Hurst, assistant solicitor, has been appointed deputy town clerk in place of Mr. Jackson.

Mr. J. P. Eddy, Q.C., is retiring, by reason of the age limit, from his two posts of stipendiary magistrate for the county boroughs of East Ham and West Ham on June 8 next. He was appointed stipendiary magistrate in 1949, having previously held the office of recorder of West Ham for thirteen years.

OBITUARY

Sir William Ascroft, High Sheriff of Lancs. in 1943, has died at the age of seventy-seven. He was in the family business of R. & W. Ascroft, solicitors, of Preston, for many years, eventually becoming the senior partner.

BOOKS AND PAPERS RECEIVED

The Police College Magazine, Vol. 3, No. 2, March, 1954.

The Howard Journal, 1954. The official organ of the Howard League for Penal Reform. Parliament Mansions, Abbey Orchard Street, S.W.1. Price 2s. 6d.

THE
LEGAL MINDAN APPROACH TO
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"SMILE, PLEASE"

A recent episode at Devon Quarter Sessions (reported *ante*, 257) affords much food for thought. A man charged there with burglary seems to have taken his profession very seriously, for on conviction he asked for 576 other offences to be taken into consideration. The main interest of the case, however, was provided by the alert constable who made the arrest. The man was disguised at the time, but the constable (evidently a good judge of horseflesh) "knew him by his teeth." Asked for further and better particulars, that observant officer stated in evidence that he had smiled at the man who, smiling back at him, disclosed his teeth, which made recognition instantaneous. The result of this exchange of courtesies was a term of seven years' imprisonment. Never was smile so fraught with fate.

Generally speaking, a smiling face is deemed to be an asset. "Service with a smile" used to be a slogan impressed by earnest employers upon their staffs. A song-writer of 1914 urged his hearers to "pack up your troubles in your old kit-bag, and smile, smile, smile!" Moral text-books once upon a time encouraged young readers to ease the daily round of social life by smiling cheerfully at all and sundry. But there is a time and place for everything; to wear a smile at a funeral, or in church during the sermon, is as deplorable as preserving a frown at a wedding-breakfast or compressing the lips during the recital of a funny story, even if you have heard it many times before.

There is, of course, one kind of smile—"twisted," the novelists call it—which is calculated to register contempt rather than benevolence—the sort of expression that the old-fashioned type of sergeant-major used to call "dumb insolence." An echo of those days was heard recently in a case in the Courts-Martial Appeals Court, where counsel for the appellant described the victim of his client's alleged assault as "an unsatisfactory witness, who was reprimanded for smiling during the trial." This witness had said, remarked counsel, that he had "a rare sense of humour, and went to see a psychiatrist about it." "It would make me think" commented the Lord Chief Justice "that he was a very dangerous witness if he had to go and see a psychiatrist about his sense of humour." We respectfully agree; but not all judges—and not all policemen, either—are so tolerant. Many a respectable person has got into serious trouble for innocently turning a regard of smiling familiarity, in a public place, on a member of the opposite sex who turns out to be a complete stranger; there is no foreseeing the reaction of some people, particularly spinsters of virtuous middle age.

"And others of such vinegar aspect
That they'll not show their teeth in way of smile."

There was a case, not long ago, at Hendon, Middlesex, where a man who "didn't like women" boarded a bus and objected to the cheerful countenance of the conductress. He stared at her "in a peculiar manner," asked why she was smiling, swore at her and struck her on the face. The resourceful lady playfully hit back at him with a ticket-rack, and nobody can say she was not justified. There may be provocation in gestures, but a smile is not enough to give even a misogynist grounds for an assault.

There are all kinds of motives for smiling and many kinds of smiles. The most famous in the history of art is that on the face of Leonardo's portrait of Madonna Lisa del Giocondo, which has been described as enigmatic, mysterious, secretive, inscrutable and provocative, according to the taste and fancy of the viewer. The simple explanation may be that this was exactly how she looked, and that the portrait is as faithful a delineation of her expression as is Franz Hals' picture of the *Laughing Cavalier*. In literature the best-known smiler is

Malvolio, in *Twelfth Night*, on whom Maria and Sir Toby Belch played the cruel trick of the anonymous letter:

"If thou entertainest my love, let it appear in thy smiling; thy smiles become thee well; therefore in my presence still smile, dear my sweet, I prithee."

The handwriting of the note was forged to look like that of the Lady Olivia, and she, "being addicted to a melancholy," found Malvolio's unwonted cheerfulness tasteless and out of place, particularly when combined with "yellow stockings and cross-gartering." This kind of synthetic smile can be particularly infuriating to the onlooker; its modern counterpart is the tooth-paste advertisement variety favoured by the most inane of female film-stars. The case of Claudius of Denmark was quite different; his trouble was hypocrisy, and Hamlet's outburst may well have been in the mind of the Devon policeman (referred to above) as he reached for his official notebook:

"O villain, villain! Smiling, damned villain."

My tables—meet it is I set it down—

That one may smile, and smile, and be a villain."

Then, again, there is the smile of pure affection seen on the faces of some mothers as they gaze at their children; there is the *naïf* smile which is characteristic of statues of the pre-classical Greek Archaic Period; the smile of serenity and compassion on the features of those wonderful Chinese images of the Buddha and of Kwan-Yin, the Goddess of Mercy; the grave smile of wisdom that Matthew Arnold saw in Shakespeare's face:

"We ask and ask; thou smilest and art still,
Out-topping knowledge."

In contrast, there is the smile on the lips of the colossi of Nineveh, expressing the proud consciousness of power. Just such a smile as this was seen on the face of the tiger on which the young lady of Niger went for a ride.

It is not often that smiles have the utilitarian purpose of facilitating identification of or by the teeth, but another news-item draws attention to a further example. Week-end visitors returning to Northern France from Holland are being made, literally, to force a smile in the customs-shed. False teeth, it appears, are so much cheaper in Amsterdam than in the French cities that Dutch firms are sending coaches to the frontier to collect French clients and bring them back. As there is an import duty in France of thirty-five *per cent.* on dentures, revenue officers are seeking to check evasion by inspection of returning travellers' teeth. At a time when the muzzle of censorship has clamped down on the ordinary citizen in so many parts of the world, it is unique to find a country where he has to open his lips by government decree. The common man is showing his teeth at last, but by the time he leaves the customs-shed he is doubtless smiling on the wrong side of his mouth.

A.L.P.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, May 11

CORONERS BILL, read 2a.

Thursday, May 13

PROTECTION OF BIRDS BILL, read 2a.

NOTICES

The next court of general quarter sessions for the city of Hereford will be held on Friday, May 28, 1954, at 10.30 a.m.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Contract—Street lighting continued after end of contract—Terms not specified.

In 1945 my council entered into a contract with a neighbouring municipal corporation who were the then electricity authority. The agreement was to remain in force until 1950. In 1948 the corporation's undertaking was taken over by the Electricity Board and the Board have since continued to provide the services referred to in the agreement. Up to the half-year ended September, 1953, the council have paid at the rate per lamp laid down in the agreement, this being the amount demanded by the Board. Under cl. 3 of the agreement the Board were entitled to increase the charge to the council for electric current consequent upon any increase in their power-rate charge. This contingency did not arise during the currency of the agreement but it arose afterwards. The Board have now intimated to my council that they wish a new agreement to be entered into and negotiations are in progress. The Board have also asked for the payment by my council of increased charges arising out of increases in the power-rate charge in respect of the years 1952, 1953, and 1954, i.e., after the expiration of the agreement.

Your opinion is asked whether the Board's claim for these increased payments, which arose after the agreement had lapsed, is valid. In other words, has an implied contract in the same terms as the written agreement come into operation by the act of the parties on an analogy with the doctrine of holding over in the realm of landlord and tenant?

ELEKON.

Answer.

The existence of a contract may be inferred from the conduct of the parties: *Brogden v. Metropolitan Railway Co.* (1877) 2 App. Cas. 666. Here it appears that Board and the council continued to act after the expiry of the agreement as though its terms governed their relations and the inference from this conduct is that the agreement was extended. The Board's failure to raise the charges, at the first moment when the agreement would have allowed them to do so, could have been inadvertent, and is not in our opinion enough to raise an inference that the Board and the council intended to vary the terms of the agreement, by dropping the increase. Subject to anything shown in correspondence between the Board and the council, or in the accounts rendered by the Board, or in other documents, our opinion is that the claim for arrears of increased payments is valid.

2.—Evidence—Matrimonial proceedings—Compellability of husband to answer questions.

At the petty sessional hearing of X's summons against her husband, Y, for maintenance on the grounds of desertion, Y appeared personally though unrepresented, and admitted desertion. After X's evidence Y gave evidence as to means, stating his type of work, his wages and his expenses. Y's advocate cross-examined and asked Y for (a) his present address and (b) the name of his employers. Y refused to answer either question and the court ruled that he was under no obligation to do so and that in any case the court had no means of compelling him to answer. An order for maintenance was made.

Y has, of course, given his address to the justices' clerk, and, at the court's request has voluntarily given his employers' name to the probation officer for him to report to the court as to the accuracy of the wage figure given.

Your opinion on the correctness of this procedure would be much appreciated, and in particular:

(1) Should the court have ordered Y to answer as to his address and employers' name?

(2) If so, what sanction can the court impose to compel an answer?

(3) Would the position have been different if Y had appeared but declined to give evidence at all?

(4) If Y had not attended could he have been made to attend an adjournment and give information as to means? TENOS.

Answer.

(1) We hesitate to question the wisdom of the course taken by the justices who saw and heard the parties. We think that if the solicitor doubted the defendant's statement as to his earnings and expenses the justices might well have required him to give the further information as a means of testing his story.

(2) As he is refusing to give certain evidence it would appear that he could be committed under s. 77 (4) of the Magistrates' Courts Act, 1952. This however is an extreme measure and does not seem appropriate here.

(3) If (2) is correct, we think not. If however s. 77 (4) applies only when a witness refuses to give evidence at all, then the position is different.

(4) Subject to fulfilment of the requirements of s. 47 of the Magistrates' Courts Act, 1952, a warrant of arrest could be issued. A warrant could not be issued if he had already given evidence.

3.—Licensing—Revocation of order extending permitted hours—procedure.

Permitted hours in a licensing district were extended in 1953 until 10.30 p.m. during the summer months. The licensees have now decided, in the light of experience, that they do not wish to keep open during the extra half hour in future. Is it necessary for an application to be made to the licensing justices *vide* rr. 4 and 5 of the Licensing Rules, 1921, to vary their order?

NEMO.

Answer.

It can be argued that an order made under what is now the proviso to s. 101 (2) of the Licensing Act, 1953, will lapse automatically if the licence holders and registered clubs in the licensing district cease to avail themselves of it.

But it is undoubtedly good licensing administration for the licensing justices formally to revoke their order when there is no longer the need for it. The revocation will take the form of a variation of permitted hours fixed under s. 101 (1) of the Licensing Act, 1953 (previously s. 1 (2) of the Act of 1921) and is proper to be dealt with under rr. 4 and 5 of the Licensing Rules, 1921.

4.—Lighting and Watching Act, 1833—Lighting of unadopted street.

Section 45 of this adoptive Act authorizes lamp irons or lamp posts to be put or fixed upon or against walls . . . or enclosures . . . or be put up and erected in such other manner within all or any of the roads streets and places as the lighting authority may think proper. . . . An inquiry has been received whether electricity may be carried to unadopted roads, and it seems to me, having regard to s. 45, that this will be permissible, but your opinion would be appreciated. PUBLUX.

Answer.

Yes, in our opinion, but the consent of the owners of the soil of the road to the laying of the cables should be obtained.

5.—Local Government Procedure—Interest in contract—Withdrawal of councillor under standing order.

Under the powers conferred by s. 76 (9) of the Local Government Act, 1933, my council have made a standing order providing for the exclusion of a member from a meeting while any contract, etc., in which he has a pecuniary interest is under consideration. If a member withdraws in pursuance of the standing order, is he nevertheless entitled to sit in the public gallery while the council debate the contract in which he has a pecuniary interest?

The member argues that a person who is not a member of the council is entitled to sit in the public gallery although he is financially interested in the matter being debated, and that s. 76 (9) must not be construed to put a member in a less advantageous position than an outsider. On the other hand, if the relevant words in s. 76 (9) are to bear the same meanings as those in the Local Authorities (Admission of the Press to Meetings) Act, 1908, it appears beyond question that the member must leave the room where the council meeting is being held.

Answer.

The last stated construction is in our opinion correct. The suggested analogy between a councillor and an outsider is unsound, first because the latter (not being a press representative) has no right to be present; secondly because the purpose of the standing order is to ensure that the councillor's colleagues are not embarrassed. For this purpose, he must be out of the room.

EX CONCILIO.

6.—Justices—Appeal from local authority—Public health and planning involved—Procedure.

In 1952 an application was made to a district council, under s. 57 of the Food and Drugs Act, 1938, for a licence to use premises as a knacker's yard. These premises had never been previously so licensed. An application was made to the same council for planning permission under the Town and Country Planning Act, 1947, to use the premises for this purpose. The council informed the applicant by letter that a licence would be granted at the expiration of three months, if certain works were carried out, but soon afterwards the application for planning permission was refused. Meantime the works asked for had been substantially carried out, though no licence under the Food and Drugs Act was granted by the council, pending the result of the planning application. On appeal, planning permission was granted by the Minister for the use of the premises as a knacker's yard. While his appeal was pending, the premises were taken out of the former

district, and brought into another district, in the same planning area. On applying to the new district council for a licence under the Food and Drugs Act, the applicant was (by the new council) refused a licence, for the reason that the premises were not considered suitable on public health grounds, notwithstanding that the works required by the first council had been executed.

The applicant then appealed to the magistrates' court under ss. 57 (6) and 87 of the Food and Drugs Act. At the hearing the district council, as respondents, called a quantity of evidence relating to general public health aspects, i.e., the breeding of flies and the presence of canteens, food shops, public footpaths, attested herds, etc., in the neighbourhood, but admitted that the premises themselves could be made suitable for a knacker's yard if certain additional works were carried out. A number of the witnesses on the general aspects had given similar evidence as objectors at the town planning appeal, and counsel for the appellant did not object to the admission of this evidence.

A reference to s. 57 seems to indicate that the section is concerned only with the suitability of premises as such, but I find a note in 10 *Halbury's Statutes* (2nd Edn.) 463 to s. 87 as follows:

"An Appeal. The right is one of a rehearing by the court of the whole issue. The court is not limited to reviewing the correctness or otherwise of the grounds for an authority's decision (*Fulham Metropolitan Borough Council v. Santilli* [1933] 2 K.B. 357)."

It was argued by the clerk of the respondent council that this note supported his contention that the court was not restricted to considering merely the suitability of the actual premises, but I am of the opinion that the "whole issue" is confined by s. 57 to such consideration.

I should be grateful for a reply to the following questions:

1. Is the court by s. 57 restricted to considering merely the evidence which has been given as to the suitability of the premises, or may it properly consider the further evidence concerning the general desirability of a knacker's yard in that locality?

2. If the answer to the first part of question 1 is in the affirmative, would it be proper for the court to adjourn the proceedings for three months to enable the appellant to carry out the additional works and to indicate that, provided the court is satisfied by evidence at the expiration of that period that the works have been carried out, the licence will be granted? In this connexion it is thought that it would not be proper to allow the appeal, subject to the carrying out of the works.

BAGRUM.

Answer.

1. We agree that the appeal is a rehearing, upon which either side may introduce matters which had not been before the council when its decision was reached. This enables the new council to urge (for example) that there are defects in the premises not noticed by the former council, and enables the appellant to urge that there are more persons needing the services of a knacker than were known last year.

But we think it would be improper for the magistrates' court to go into matters which were gone into under the Town and Country Planning Act, 1947. By doing so, the court would be usurping the function of the appellate tribunal (the Minister) under that Act, and, indeed, setting itself up as a court of appeal from the Minister.

If the case reached the Divisional Court, we have no doubt but that that Court would follow its own decision in *Pilling v. Abergele U.D.C.* [1950] 1 All E.R. 76; 114 J.P. 69. For the present purpose, it seems to us that the relevant provisions in the Public Health Act, 1936, and the Food and Drugs Act, 1938, are parallel, and that that case is therefore indistinguishable in substance from the case before us.

2. We agree that a decision upon condition subsequent might be inconvenient. We were at first attracted by the idea of adjourning, but there are difficulties, partly of procedure: (a) The refusal of the grant of a licence by the local authority had been made, *inter alia*, as a result of an inspection of the premises in the condition that they were in at the time when the appeal came before the court, and the local authority are entitled to a decision *rebus sic stantibus*;

(b) If the court adjourned for three months to enable work to be done, the premises would be put into a condition, in which (had they been in the first place) the licence might have been granted and the appeal consequently not made;

(c) The appellant might decide that he did not wish to carry out the works in the interval;

(d) Two of the three magistrates forming the court might die in the interval, leaving no court to decide, on the evidence, whether the works had been carried out or to announce its decision on the appeal.

For these reasons, we think it may be better to dismiss the appeal, whilst stating that, had this and that work been done, the appeal would have been allowed.

It is true that this puts the unfortunate appellant in the position of having to go back (for a fourth time) to a local authority, but we must presume that the district council will respect the magistrates' opinion, and grant the licence if the work considered necessary by the magistrate is done.

7.—Music, etc., licence—Revision of conditions on renewal—Procedure. The licensing committee wish to revise the conditions of certain

music and dancing licences. Having regard to s. 51 (10) of the Public Health Acts Amendment Act, 1890 (which provides that no notice need be given by the applicants for the renewal of existing licences) and to the fact that it is not usual for licence holders to attend the licensing sessions, what is the correct procedure?

The licences in question are, in fact, Sunday entertainments licences, but this does not seem to affect the procedure. NIMBLE.

Answer.

The Public Health Acts Amendment Act, 1890, s. 51, contains no procedure to deal with the situation outlined.

In our opinion a correct procedure would be to notify the holder of every licence affected that the licensing justices propose, when the licences come up for renewal, to revise the conditions in the manner set out in the notification, and will then be willing to consider any representations which the licence-holders may desire to advance.

8.—Periodical Payments—Duty of justice's clerk—Magistrates' Courts Rules, 1952, r. 33—Magistrates' Courts Act, 1952, s. 52 (3).

I should be glad of your opinion on the following point:

Reference to the Act and rules referred to above will show that it is my duty, as collecting officer, to notify in writing, complainants if at any time payments under an order are in arrears to an amount four times the sum payable weekly thereunder, unless it appears to me by reason of special circumstances unnecessary or inexpedient to do so, and, in the event of a complainant wishing action to be taken, such complainant must request me in writing to proceed in my own name for the recovery of the arrears.

Whilst I can appreciate the necessity in some instances for r. 33, it appears rather superfluous in circumstances where I get a complainant calling at the office—in many cases two or three times a week—to see if any money is in hand under the order. Obviously, in such cases the complainant wishes some action to be taken and, from my personal experience, it would appear in many instances that the complainant would be at a loss to understand why I should present to her a paper telling her the order is in arrear to an amount equal to four times the sum payable weekly thereunder, and then to obtain from her an authority to proceed in my own name to try and recover the arrears.

The majority of complainants are entirely ignorant of the rules and the Act, and in the event of an order being in arrear, they naturally expect me to do something about it.

I also appreciate that r. 33 makes provision for the notice not being given if it appears to me by reason of special circumstances unnecessary or inexpedient, and in the instances quoted above I feel it is fairly obviously unnecessary to give a notice in writing.

Experience shows that in the case of some orders, no payment is forthcoming unless action is taken for the recovery of arrears, and I have in mind obtaining from each complainant a general authority and request in the form sent herewith.

I should be glad of your opinion (i) as to whether in the circumstances quoted above it is unnecessary to give a complainant notice of the arrears and (ii) whether I shall be in order in taking a general authority in the form suggested and enclosed herewith, from each complainant at the time the order is made and not taking a specific authority in respect of each complaint to be issued.

SPED.

[The form enclosed with our correspondent's query is as follows]:

IN THE COUNTY OF LOAMSHIRE
Petty Sessional Division of Loamford.

To A. SMITH

Clerk to Justices and Collecting Officer of the said Division

Myself v.

Order No.

dated

PURSUANT to Section 52 (3) of the Magistrates' Courts Act, 1952, I HEREBY AUTHORIZE and REQUEST you, if and when any sums payable under the above Order are at any time in arrear to an amount equal to four times the sum payable weekly thereunder (unless it appears to you that it is unreasonable under the circumstances to do so) to proceed in your own name on my behalf for the recovery of those sums and I HEREBY ACKNOWLEDGE that I shall be liable for all costs properly incurred in or about any such proceedings, as if the same had been taken by myself.

DATED the

day of

195

Answer.

(i) We agree that where the woman attends and is told what arrears are due it seems unnecessary to give her a written notice. We do not think too narrow a construction need be placed upon the words "special circumstances" in r. 33.

(ii) In our opinion, there should be a separate written request in respect of each issue of process to recover arrears. There may be circumstances which have arisen since the giving of a general authority which would influence the attitude of the complainant, and as there may be a question of issuing a warrant we think the complainant should make her request in writing at the time when application for process is to be made.

COUNTY BOROUGH OF EASTBOURNE

Appointment of Chief Constable

APPLICATIONS are invited for the above appointment at a salary of £1,350 per annum, rising by annual increments of £50 to £1,500 per annum, together with a Car Allowance of £175 per annum.

The appointment will be subject to the Police Regulations and may be terminated by three months' written notice on either side.

The person appointed will be required to reside within the Borough in a house owned by the Corporation and to devote the whole of his time to the duties of the office.

Forms of application may be obtained from the undersigned, to whom they must be delivered duly completed, and accompanied by copies of three recent testimonials, in an envelope endorsed "Chief Constable," not later than 12 noon on June 5, 1954.

Canvassing in any form will disqualify and applicants should disclose any known relationship to any member or chief officer of the Eastbourne Town Council.

F. H. BUSBY,
Town Clerk.

Town Hall,
Eastbourne.
May 12, 1954.

BOROUGH OF WALLSEND

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors having local government experience for the appointment of Town Clerk from October 1, 1954.

The salary will be within the scale of £1,500 p.a. rising by annual increments of £50 to £1,750 p.a. The Recommendations regarding Salary and Conditions of Service of the Joint Negotiating Committee for Town Clerks and District Council Clerks will apply to the appointment. The Town Clerk is Registration Officer and Acting Returning Officer for the Parliamentary Borough of Wallsend. The appointment is subject to the Local Government Superannuation Acts, to medical examination and to termination by three months' notice.

Applications, endorsed "Town Clerk," giving particulars of age, qualifications and experience, previous and present appointments, with the names and addresses of three persons to whom reference can be made, must reach the undersigned not later than June 5, 1954.

CHAS. E. BRADBURY,
Town Clerk.

Town Hall,
Wallsend-on-Tyne.

METROPOLITAN MAGISTRATES' COURTS AREA

THERE are vacancies for men and women probation officers in the London Probation Service. Appointments are made by the Secretary of State for the Home Department, and are subject to the Probation Rules and the Probation Officers (Superannuation) Order, 1948. The persons appointed may be required to serve in any part of the Area, and will be assigned to such courts as the Secretary of State may from time to time decide.

Application forms may be obtained from Probation Division, Home Office, Whitehall, London, S.W.1, and should be returned not later than June 12, 1954.

BERKSHIRE MAGISTRATES' COURTS COMMITTEE

County Petty Sessional Divisions of the Forest,
Reading and Windsor
(Estimated Population, 103,000)

APPLICATIONS are invited for the following appointments of First and Second Assistants to the Clerk to the Justices.

First Assistant.—Applicants must be fully experienced in keeping fines and fees accounts, issuing process, taking courts and depositions and keeping all accounts (other than those of collecting officer). Salary £620—£670 p.a.

Second Assistant.—Applicants must be fully experienced in keeping fines and fees accounts, issuing process, shorthand and typewriting, taking depositions and keeping all accounts (other than those of collecting officer). Salary £495—£540 p.a. (Female £401—£437 p.a.)

The salaries will be reviewed when the National Scales for Justices Clerks' Assistants are known. The Justices Clerk's offices are at Wokingham and Reading.

Applications, stating age, present salary and full particulars of experience, together with the names of two referees, should reach the undersigned by not later than May 28, 1954.

E. R. DAVIES,
Clerk of the Committee.

Shire Hall,
Reading.

ESSEX PROBATION AREA

Appointment of Probation Officer

APPLICATIONS are invited for the appointment of a full-time male Probation Officer.

Applicants must not be less than twenty-three nor more than forty years of age, except in the case of a serving probation officer.

The appointment will be subject to the Probation Rules, 1949, and the salary will be according to the scale prescribed by those Rules.

Applicants should be able to drive a car. The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than three recent testimonials, must reach the undersigned not later than fourteen days after the appearance of this advertisement.

W. J. PIPER,
Clerk of the Peace and of
the Probation Committee.

Office of the Clerk of the Peace,
Tindal Square,
Chelmsford.

MIDDLESEX COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICANTS must be not less than twenty-three nor more than forty years of age, except in the case of a serving Probation Officer, and have recognized social science training. Appointment and salary according to Probation Rules, 1949/54, with £30 p.a. Metropolitan Addition; subject to superannuation deductions and medical assessment. Application forms, from undersigned, to be returned by June 5 (quote N. 536 J.P.).

CLIFFORD RADCLIFFE,
Clerk to the County Probation Committee.
Guildhall,
Westminster, S.W.1.

DEVON COUNCIL

Assistant Solicitors (2) required

(a) Salary £1,000×£50 to £1,150. Local Government experience essential.

(b) Junior Assistant Solicitor within salary range £650 to £810. Local Government experience desirable but not essential.

Both appointments terminable by three months' notice on either side. Applications, with full details and names of two referees, to be forwarded to the undersigned by June 4, 1954.

H. G. GODSALL,
Clerk to the Council.

The Castle,
Exeter.

BOROUGH OF WOOD GREEN

Deputy Town Clerk

THE Council invite applications for the appointment of Deputy Town Clerk of the Borough, at a salary of £1,050, rising by four annual increments of £50 to £1,250 per annum.

Applicants must be Admitted Solicitors and must also have had considerable experience in Local Government Law and Administration.

The appointment is generally subject to the conditions of service fixed by the Joint Negotiating Committee for Chief Officers of Local Authorities, and may be terminated by one month's notice on either side. It is also subject to the Local Government Superannuation Acts, and the successful candidate may be required to undergo a medical examination.

Applications, stating age, qualifications and experience, and accompanied by copies of two recent testimonials, must reach the undersigned not later than Saturday, May 29, 1954.

Canvassing, either directly or indirectly, will be a disqualification.

H. CHUBB,
Town Clerk.

Town Hall,
Wood Green N.22.

NORTHUMBERLAND COMBINED PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer for the No. 3 District of the Combined Area (West Castle Ward).

Applicants should be trained or possess experience in probation or other social work, and should be not less than twenty-three or more than forty years of age except in the case of whole-time serving officers and persons who have satisfactorily completed a course of training approved by the Secretary of State. The appointment will be subject to the Probation Rules, 1949 and 1952, and the Probation Officers Superannuation Rules. The salary and allowances will be in accordance with the scale prescribed by the Probation Rules, and the person appointed will be required to pass a medical examination and reside near Newcastle upon Tyne.

Forms of application may be obtained from the undersigned and application, accompanied by a copy of one testimonial and the names and addresses of two referees, must be received by me not later than June 3, 1954.

E. P. HARVEY,
Clerk of the Peace.

County Hall,
Newcastle upon Tyne 1.

REGISTER OF LAND AND ESTATE AGENTS, AUCTIONEERS, VALUERS, AND SURVEYORS

CHESHIRE

CHESTER—HARPER, WEBB & CO., Chartered Surveyors. Rating Specialists, 35 White Friars, Chester. Tel. 20685.

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FALMOUTH—ROWE & KNOWLES, Strand, Falmouth. Tel.: 189 and 1308.

DEVON

AXMINSTER—ARNOLD L. BALDOCK, B.Sc., A.R.I.C.S., Chartered Surveyor, Valuer, Land Agent, Shute, Axminster. Tel. 2398.

EXETER—RIPPON, BOSWELL & CO., F.A.I., 8 Queen Street, Exeter. Est. 1884. Tels. 3204 and 3592.

ESSEX

ILFORD AND ALL ESSEX—RANDALLS, Chartered Surveyors, Auctioneers, Valuers, 1 Medway Parade, Cranbrook Rd., Ilford. Est. 1884. Tel. ILford 2201 (3 lines).

GLOUCESTERSHIRE

CIRENCESTER AND COTSWOLDS—HOBBS & CHAMBERS, F.R.I.C.S., F.A.I., Market Place, Cirencester. (Tel. 62/63) and Faringdon, Berks.

HERTFORDSHIRE

BARNET & DISTRICT—WHITE, SON & PILL, 13/15 High Street. Tel. 0086, and at New Barnet.

KENT

BECKENHAM—BROMLEY—SUTCLIFFE, SON & PARTNERS, Estate Agents and Surveyors, The Old Cottage, Estate office, opp. Shortlands Station, Kent. Tel. RAY. 7201/6157. Also at 20 London Road, Bromley. RAY. 0185/7.

WEST RIDING AREA PROBATION COMMITTEE

Appointment of Male Probation Officer

APPLICATIONS are invited for the above whole-time appointment.

The officer would be centred at Halifax and assigned to the Petty Sessional Divisions of Halifax County Borough, Todmorden County Borough and Morley West.

Applicants must be not less than twenty-three nor more than forty years of age except in the case of whole-time serving officers, and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointment will be subject to the Probation Rules, 1949 to 1954, and to the Local Government Superannuation Act, 1947, as amended by the West Riding County Council (General Powers) Act, 1948.

The successful candidate will be required to pass a medical examination.

Application forms may be obtained from the Principal Probation Officer, West Riding Court House, Wakefield.

Applications, together with two recent testimonials, should be enclosed in a sealed envelope marked "Appointment of Probation Officer," and must reach the undersigned not later than June 12, 1954.

BERNARD KENYON,
Clerk to the Area Probation Committee.
Office of the Clerk of the Peace,
County Hall,
Wakefield.

FRANK DEE,

Incorporated Insurance Broker,

30, ST. ANNS RD., HARROW

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BLACKBURN & EAST LANCASHIRE—SALISBURY & HAMER (Est. 1828). Mills and Works Valuers, Auctioneers and Estate Agents, 50 Ainsworth Street, Blackburn. Tel. 5051 and 5567.

MANCHESTER—EDWARD RUSHTON, SON & KENYON, 12 York Street. Est. 1855. Tel. CENTral 1937. Telegrams Russoken.

LEICESTERSHIRE

LEICESTER, LEICESTERSHIRE & MIDLANDS—MONTAGUE TURNOR, F.A.L.P.A., F.V.I., Auctioneer, Estate Agent, Surveyor and Valuer, 27, Belvoir Street, Leicester. (Tel. 65244-5).

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ANScombe & RINGLAND, Surveyors, Chartered Estate Agents, 8 Wellington Road, N.W.8. Tel. PRI. 7116.

DRIVERS, JONAS & CO., Chartered Surveyors, Land Agents and Auctioneers, 7 Charles II Street, St. James's Square, London, S.W.1. Whitehall 3911. Also at Southampton.

FAREBROTHER, ELLIS & CO., 29 Fleet Street, E.C.4.

H. C. WILSON & CO., 51 Maids Vale, W.9. Est. 1853. Tel. Cunn. 6111 (4 lines).

WYCOMBE RURAL DISTRICT COUNCIL

Legal Assistant

APPLICATIONS are invited for the position of Legal Assistant in the Clerk's Department. Salary A.P.T. IV (£580—£625 per annum).

The duties of the post are similar to those of a Solicitor's Managing Clerk, and applicants must be capable of acting under nominal supervision.

A House will be available for the successful applicant.

Applications, stating age, legal experience, previous appointments and salaries, and giving the names of two referees, should be sent to the undersigned by June 2, 1954.

J. T. CHENERY,
Clerk of the Council.

COUNTY OF ESSEX

Appointment of Deputy Clerk of the County Council

APPLICATIONS are invited for the appointment of second Deputy Clerk of the County Council at a salary of £2,300 a year, rising by annual increments of £60 to a maximum of £2,600 a year. Candidates must be solicitors with a wide knowledge and experience of Local Government.

No forms of application will be issued. Applications for the appointment, giving the names of not more than three referees, must be received by me not later than June 16, 1954. Envelopes should be endorsed "Deputy County Clerk." Canvassing, directly or indirectly, will be a disqualification.

JOHN E. LIGHTBURN,
Clerk of the County Council.

County Hall,
Chelmsford.
May 20, 1954.

MIDDLESEX

POTTERS BAR & DISTRICT—WHITE, SON & PILL, 58 High Street. Tel. 3888.

NOTTINGHAMSHIRE

NOTTINGHAM—KINGSTON & PARTNERS, Surveyors, Valuers, Town Planning Consultants and Industrial and Rating Valuers, 14 Chaucer Street. Tel. 45290.

RETTFORD—HENRY SPENCER & SONS, Auctioneers and Valuers, 20 The Square, Retford, Notts. Tel. 531/2. 9 Norfolk Row, Sheffield. Tel. 25206. 91 Bridge Street, Worksop. Tel. 2654.

SURREY

CAMBERLEY (HANTS & BERKS BORDERS)—SADLER & BAKER, Chartered Auctioneers and Estate Agents, 31 High Street. Est. 1880. Tel. 1619.

ESHER—W. J. BELL & SON, Chartered Surveyors, Auctioneers and Estate Agents, 51 High Street, Esher. Tel. 12.

GUILDFORD—CHAS. OSENTON & CO., High Street. Tel. 62927/8.

SURBITON—E. W. WALLAKER & CO., F.A.L.P.A., Surveyors, Auctioneers, Valuers and Estate Agents, 57 Victoria Road, Surbiton. Tel. ELMbridge 5381/3.

SUSSEX

BOGNOR REGIS, CHICHESTER, SELSEY & DISTRICT—CLIFFORD E. RALFS, F.A.L.P.A., Auctioneer, Estate Agent, Surveyor, Knighton Chambers, Aldwick Road, Bognor Regis. (Tel.: 1750).

BRIGHTON & HOVE—H.D.S. STILES & CO., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 101 Western Road, Brighton 1. Tel. Hove 35281 (3 lines). And at London.

HAMPSHIRE COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited from persons who have had experience and/or training as Probation Officers for the appointment of a Full-time Probation Officer for the above area. Candidates must be not less than twenty-three nor more than forty years of age (except in the case of serving officers).

The appointment and salary will be in accordance with the Probation Rules and the salary will be subject to superannuation deductions.

Applications, giving particulars of age, education, present salary, qualifications and experience, with the names and addresses of not more than three persons to whom reference may be made, should be submitted to the undersigned not later than June 5, 1954. Canvassing, either directly or indirectly, will be a disqualification.

G. A. WHEATLEY,
Secretary of the Probation Committee.
The Castle, Winchester.

COUNTY BOROUGH OF BARROW-IN-FURNESS

Appointment of Assistant Solicitor

APPLICATIONS are invited for the permanent appointment of Assistant Solicitor in the Town Clerk's Department, at a salary in accordance with A.P.T. Grade IX of the National Scale of Salaries (£840 rising to £960 per annum).

Form of application and conditions of appointment may be obtained from the undersigned, to whom completed applications must be returned in envelopes endorsed "Assistant Solicitor," to arrive not later than Wednesday, May 26, 1954.

LAWRENCE ALLEN,
Town Clerk.
Town Hall, Barrow-in-Furness.